

H-Diplo ROUNDTABLE XXI-15

Oona A. Hathaway and Scott J. Shapiro. *The Internationalists: How a Radical Plan to Outlaw War Remade the World*. New York: Simon & Schuster, 2017. ISBN: 9781501109874 (paperback, \$20.00).

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Roundtable Editors: Thomas Maddux and Diane Labrosse | Production Editor: George Fujii

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INTRODUCTION BY PETER JACKSON, UNIVERSITY OF GLASGOW

The Internationalists is an extraordinarily ambitious and thought-provoking study of the impact of the 1928 'General Treaty for the Renunciation of War as an Instrument of National Policy' on world politics. The central contention of authors Oona Hathaway and Scott Shapiro is that this accord, which is better known as the 'Kellogg-Briand Pact,' inaugurated nothing less than 'a new era of human history' characterised by the decline of inter-state war as a structuring dynamic of the international system. In making their case, Hathaway and Shapiro present an eloquent argument for the importance of international law in shaping a more peaceful international future. They also intervene in the debate over the importance of ideas that is fundamental to the discipline of international relations.

The book's core argument is that the Kellogg-Briand Pact constitutes the decisive pivot in the transformation of an "Old World Order" based on the right of the strongest powers to wage war as they liked, into a "New World Order" based on the rule of law and in which perpetrators of aggressive war are cast out of the international community. The chief evidence that is cited in support of this contention is the startling decline in inter-state "wars of conquest." Drawing on the excellent database created by the "Correlates of War"¹ research project, Hathaway and Shapiro show that between 1816 and 1928 there was on average one conquest every ten months. After 1945, conversely, the number of such conflicts declined to barely one in every four years (311-335).

Underpinning this argument is a heroic narrative of the rise of international law. Hathaway and Shapiro begin with a highly critical discussion of the contributions of the Dutch diplomat and legal theorist Hugo Grotius, who is charged with providing legal sanction to wars of conquest. Grotius is depicted as the chief architect of an international order that was based on a logic of inter-state violence and that culminated in two world wars of unparalleled destructiveness during the first half of the twentieth century. This demonization of Grotius, which might be slightly ahistorical to the historian of international relations, is now something close to received wisdom in the fields of international law and international relations theory.² According to the authors, the Kellogg-Briand Pact, by outlawing war, ended the bloody and chaotic era of Grotius and ushered in a new era of internationalism characterised by peace among nations. The implicit contention throughout is that legal order creates political order.

The authors of *The Internationalists* acknowledge that it took time for the Kellogg-Briand Pact to have effect. They also admit that the sharp decline in wars of conquest has also been facilitated by a range of international institutions and legal regimes established since the end of the Second World War. Hathaway and Shapiro emphasise, however, that the 1928 Pact was the crucial precondition for this international machinery. This is because it prescribed the rule of law, rather than the use of force, as the means to eradicate war. Since the "Treaty for Renunciation of War," they argue, aggressor states have typically met with political and economic sanctions that have placed them outside the community of states. This approach is contrasted with the Covenant of the League of Nations, which Hathaway and Shapiro criticise for envisaging the use of armed force to keep the peace (105-6). They worry that the U.S. now seems tempted to turn its back on the "rules-based international system" in which it played such an important establishing role after 1944.

The quality of the reviews on offer in this roundtable provides eloquent testimony to the scope and importance of *The Internationalists*. All three commentators are highly distinguished scholars in the field of international relations. Daniel

¹ "The Correlates of War Project," n.d., <http://www.correlatesofwar.org/data-sets>.

² For a good example of this critical perspective see Martine Julia Van Ittersum, "Hugo Grotius: the making of a founding Father of International Law," in Anne Orford and Florian Hoffmann, eds., *The Oxford Handbook of the Theory of International Law* (Oxford: Oxford University Press, 2016), 83-104. As Hamish Scott has pointed out, Grotius played an important role in "redefining and narrowing the concept of 'just war' to restricted to defence against clear cut aggression." See Hamish Scott and Paul Dover "The Emergence of Diplomacy" in H. Scott, ed., *The Oxford Handbook of Early Modern European History*, vol. II, *Cultures and Power* (Oxford: Oxford University Press, 2015), 683-684.

Gorman is a highly accomplished historian of internationalism and empire in the twentieth century.³ John Mueller is the author of wide range of influential books and essays on the changing status of war in international politics.⁴ Stephen Wertheim is an expert on U.S. policy and international order whose essays and articles have already made an impact in both the scholarly and public spheres.⁵ All three reviews are thoughtful and substantial engagements with the core themes and arguments of *The Internationalists*. All praise its ambition and scholarship while at the same time challenging its core arguments in different ways.

Mueller notes a “cultural shift toward war aversion” during the first half of the twentieth century. But he argues that this shift was normative, rather than legal, and judges that it emerged either during or immediately after the First World War: “The big idea in the aftermath of the Great War was not so much that international war should be technically illegal, but, more broadly, that it was no longer an acceptable form of international behaviour.” For Mueller, the Kellogg-Briand Pact was significant not because it inaugurated a new era in world politics, but because it “worked to codify a pre-existing norm.” He therefore judges that the causal significance of the Pact is limited and that the history of the past 80 years would be little different had it never been ratified.

Gorman agrees with the interpretive thrust of *The Internationalists*. He approves of the plea for the importance of international law that is advanced throughout the book. Like Mueller, Gorman accepts the existence of a new international order. He is also persuaded that the Kellogg-Briand Pact played a role in bringing this order about. But he judges that Hathaway and Shapiro press their argument too far. The Pact, for Gorman, should be understood as part of a process that was longer in chronological terms and wider in scope and effect. He argues for “a greater appreciation of the multiple structural and contingency factors that led to the normative prohibition of war in the international system.” The 1928 Pact “was not a historical turning point in itself ... [because it was] ... not until the Second World War [had] burned the Old World Order to the ground before its ideas could take root.” For Gorman, it was the cumulative impact of the upheavals of the first half of the twentieth century that established a context in which international public law that was aimed at preserving peace and protecting human rights could gain traction.

Stephen Wertheim, meanwhile, stresses that the claim that the 1928 Pact marked the coming of a more peaceful ignores the fact that war remains a central feature of world politics. While *war for territory* has diminished in frequency, *intra-state war* remains all too common. Wertheim goes further to point to a fundamental contradiction at the heart of the Pact. For one of its chief proponents, the Canadian academic and internationalist James Shotwell, the Treaty was a decisive move towards a regime of law backed up by the threat of force. For another, lawyer and peace activist Salmon Levinson, it was a step toward

³ See, among others, Daniel Gorman, *International Cooperation in the Early Twentieth Century* (London: Bloomsbury Academic, 2017), *The Emergence of International Society in the 1920s* (New York: Cambridge University Press, 2012), and *Imperial Citizenship: Empire and the Question of Belonging* (Manchester: Manchester University Press, 2007).

⁴ See, among others, John Mueller, *War and Ideas* (New York: Routledge, 2011), *Atomic Obsession* (New York: Oxford University Press, 2009), *The Remnants of War* (Ithaca: Cornell University Press, 2004), *Retreat from Doomsday* (New York: Basic Books, 1999), and, with Mark G. Stewart, *Terror, Security, and Money* (New York: Oxford University Press, 2011), *Chasing Ghosts* (New York: Oxford University Press, 2015), and *Are We Safe Enough?* (Amsterdam: Elsevier, 2017).

⁵ See, among others, Stephen Wertheim, “Instrumental Internationalism: The American Origins of the United Nations, 1940-3,” *Journal of Contemporary History* 55:2 (April 2019):265-283; “The Birth of Global Knowledge: Intellectual Networks in the World Crisis, 1919-1939,” *International Politics* 55:6 (November 2018): 727-733; “Reading the International Mind: International Public Opinion in Early Twentieth Century Anglo-American Thought,” in Nicolas Guillot and Daniel Bessner, eds., *The Decisionist Imagination: Sovereignty, Social Science, and Democracy in the 20th Century* (New York: Berghahn, 2019), ch. 1; and “The League of Nations: A Retreat from International Law?” *Journal of Global History* 7:2 (July 2012): 210-232.

the moral transformation of international politics. Force was not only unnecessary to the effectiveness of the Pact, it was antithetical to the entire project of outlawing war. Wertheim laments that the implications of this contradiction are not acknowledged in *The Internationalists*.

Like the other reviewers, Wertheim judges the “epochal” importance attributed to the Kellogg-Briand Pact to be exaggerated. Other events, dynamics, and processes were more influential in shaping the international machinery that was established after 1945. Among the most important, for Wertheim, was the Covenant of the League of Nations: “At the level of norms, never mind diplomatic practice, the creation of the League marked a vaster change than did the signing of the Paris Peace Pact.” This is particularly true of influences on the United Nations (UN) Charter, which created a Security Council to take responsibility for opposing state aggression, with force if necessary.

All three reviewers criticise *The Internationalists* for what they see as an excessive focus on American actors and U.S. policy. Gorman points out that there were two chief negotiating states involved in the elaboration of the 1928 Pact. He laments that Hathaway and Shapiro say little about French policy beyond the assertion that Foreign Minister Aristide Briand desired an alliance with the United States. Mueller and Wertheim both note that in recent years the U.S. has been one of the world’s most prolific breakers of international law. They argue that interventions in Iraq, Syria, and Afghanistan may have done more to corrode the power of international law than any turn towards isolationism under the Trump administration. Mueller goes further to suggest that the world might even benefit from a U.S. withdrawal and retrenchment on the international stage.

Hathaway and Shapiro respond first by rejecting Mueller’s counterfactual challenge, and then indulging in counterfactual analysis of their own. “If not for the outlawry of war” they stress, “it is difficult to imagine why the rules of international law, and state practice, would have changed so quickly in the 1930s and 1940s.” The change they cite, however, is the Stimson doctrine, and in particular the use of the 1928 Pact as justification for refusing to recognise Japanese expansion on the Asian mainland. They also stress the role of the 1928 Pact in facilitating American assistance to the Allies during the Second World War. Hathaway and Shapiro go even further to argue that the Kellogg-Briand Pact was an essential precursor to the Atlantic Charter.

Responding to the charge of ‘American-centrism,’ the authors of *The Internationalists* point out that many of the key characters in their narrative were not originally from the U.S.; considerable agency in the process of outlawing war is attributed to the Canadian James T. Shotwell and central European Hersch Lauterpacht. Hathaway and Shapiro acknowledge that the interventionist U.S. policy of the past two decades, which is often justified by reference to the responsibility to protect human rights, has threatened the legitimacy of laws against aggression. They explain that this issue does not figure centrally in their analysis because the violations in question are well-known while “the successes and resilience of the system (created by the 1928 Pact) are much less well-documented.”

It is hard to disagree with the criticism of “American-centrism.” Hathaway and Shapiro have consulted with some of the historical literature on American foreign policy. But they have not engaged with the recent historical literature on transnational movements for “Peace through Law.” Nor have they drawn on the historiography of French policy, even though France was the other state actor involved in negotiating the “General Treaty on the Renunciation of War.”

Hathaway and Shapiro are right that the idea of using binding arbitration to settle political disputes was absolutely central to the 1928 Pact as well as the Geneva Protocol negotiations that preceded it. But they are wrong to represent it as the brainchild of American internationalists of the post-war decade. Arbitration was not a new idea in the 1920s, nor was it an exclusively American idea. It had been in the air on both sides of the Atlantic since at least the 1860s. Peace through arbitration was the core objective of the “Inter-Parliamentary Union for Arbitration” that was created in 1889. The Union,

which still exists today, was an international gathering of elected officials from across Europe and the United States. Its members were committed to promoting arbitration and lobbying for a Permanent Court of Arbitration.⁶

Efforts to create a binding international arbitration regime were central themes of both Hague Peace Conferences in 1899 and 1907.⁷ They were also central to plans for a post-war ‘Society’ or ‘League’ of Nations devised by official commissions in France and Great Britain in 1917-1918. The final reports of both commissions envisaged the use of legal, political, economic, and military sanctions against states that refused to submit their disputes to arbitration or refused to abide by judgements against them. French officials elaborated a particularly detailed regime of sanctions to be imposed on aggressors. These conceptions of a new world order based on the rule of international law were pushed aside by President Woodrow Wilson during the Paris Peace Conference. As a result, they have not received the attention they deserve either in the literature on the history of international organisation or in that on the evolution of international law.⁸ Hathaway and Shapiro are far from the only scholars who have neglected the history of the international movement for peace through law.

But there are other issues with the U.S.-centric view of the world on offer in *The Internationalists*. A look at the growing historiography of French internationalism during this period places the Kellogg-Briand Pact in a different light. France was not aiming for a traditional alliance with the United States in 1928. French foreign policy had renounced the search for such arrangements in 1924. It instead adopted a strategy of enmeshing Germany in a multilateral web of legal commitments that were to underpin and reinforce mutual assistance pacts of the kind proposed by the Geneva Protocol and achieved at Locarno. Arbitration played a prominent role in virtually all major French security policy initiatives during Briand’s long tenure as foreign minister from 1925 through 1932.⁹

This attempt to achieve security through arbitration and multilateral security regimes should be understood as part of a longer-term project to develop legal mechanisms to prevent war. The origins of this project can be traced to civil society initiatives to promote ‘Peace through Law’ in the latter half of the nineteenth century. Juridically inspired French peace advocates played a central role in this movement from its beginnings. Frédéric Passy, Léon Bourgeois and Paul d’Estournelles de Constant were early recipients of the Nobel Peace Prize. They argued for the establishment of compulsory arbitration

⁶ See, for example, Y. Zarjevski, *La Tribune des peuples: histoire de l’Union interparlementaire 1889-1989* (Lausanne: Payot, 1989); see also the website of the Inter-Parliamentary Union at: <https://www.ipu.org/history>.

⁷ The literature on the Hague Conferences is large and growing all the time. See especially Maartje Abbenhuis, *The Hague Conferences and International Politics, 1898-1915* (London: Bloomsbury Academic, 2018); Shabtai Rosenne, ed., *The Hague Peace Conferences of 1899 and 1907 and International Arbitration: Reports and Documents* (The Hague: T.M.C. Asser Press, 2001) and Sandy Cooper, *Patriotic Pacifism: Waging War on War in Europe, 1815-1914* (New York: Oxford University Press, 1991), 91-115.

⁸ The report of the British ‘Phillimore Committee’ is well known, that of the French ‘Commission interministérielle pour la Société des nations’ much less so. For overviews of the British plan see Ruth B. Henig, *The League of Nations* (London, Haus Publishing, 2010); Alan Sharp, *The Versailles Settlement: Peace-Making in Paris, 1919* (Houndmills: Macmillan, 1991), 44-76 and George Egerton, *Great Britain and the Creations of the League of Nations: Strategy, Politics and International Organization, 1914-1919* (London: Scholar Press, 1979), 65-9. For the French conception see Scott Blair, “Les origines en France de la SDN: la commission interministérielle d’études pour la Société des nations,” *Relations internationales*, 75: 3 (1993):277-92 and Peter Jackson, *Beyond the Balance of Power: France and the Politics of National Security in the Era of the First World War* (Cambridge: Cambridge University Press, 1914), 178-189 and 262-274.

⁹ This is my argument in “Deterrence, Coercion, and Enmeshment: French Grand Strategy and the German Problem after World War I,” in Jeffrey W. Taliaferro, Norrin Ripsman and Steven Lobell (eds.), *The Challenge of Grand Strategy: The Great Powers and the Broken Balance between the World Wars* (Cambridge: Cambridge University Press, 2012), 37-62 and *Beyond the Balance of Power*, 431-513. Briand’s tenure was interrupted for three days in July 1926, when Edouard Herriot appointed himself foreign minister in his short-lived second government.

treaties to impose the rule of law on aggressors and thus played an active role in transnational efforts to establish the rule of law as the chief means to settle political disputes between nation states.¹⁰

This movement, which I have termed “juridical internationalism,” remained unequivocally on the margins of foreign and security policy-making in France before 1914. Support for establishing a new international organisation to transform the practice of world politics was less widespread in France and was concentrated on the left of the political spectrum. It was the unprecedented destructiveness of the Great War and the collective trauma it produced that created the necessary political space for international ideas to gain traction in the public sphere. Professional soldiers and diplomats, along with the conservative right in French politics, resisted pressure to embrace co-operation under the rule of law as the basis for French security. It was not until the advent of the centre-left *Cartel des gauches* coalition of 1924 that juridical internationalism gained significant backing from political elites. Diplomats and soldiers were left with little option but to adapt to the new political context. The former proved more flexible than the latter. The result was the Geneva Protocol, the Locarno Accords and, later, the Kellogg-Briand Pact.¹¹

Another point worth emphasising here is that the French approach to establishing a peaceful international order was rooted in a very different intellectual tradition and embedded in a different political culture than that from which Hathaway and Shapiro’s ‘internationalists’ emerged. French internationalism was not only more juridical than similar movements in the U.S. and Britain, it was also more muscular. It combined emphasis on the role of law in a given political order with a persistent refusal to divorce the use of force from the rule of law. Armed force was considered a vital component in upholding the rule of law. The link between the justice and force has a long history in French political thought. It can be traced at least as far back as the seventeenth century and Blaise Pascal’s observation that “Justice without force is impotent, force without justice is tyranny.”¹²

It is therefore not surprising that French proposals for a ‘society’ or ‘league’ of nations laid great emphasis on detailed and carefully calibrated sanctions to be imposed on law-breaking nations. These sanctions were to form part of the new body international public law that would emerge after the Great War and constitute the sinews of the new international organisation. The French blueprint extended even to the creation of an international armed force that would be responsible for enforcing the rulings of the new international court of justice envisaged in all plans for a League of Nations.¹³ It is true that French Premier Georges Clemenceau and his inner circle of advisors attributed little importance to an international organisation as a source of future security for France.¹⁴ But it is also true that the vision of a new legal international order

¹⁰ See especially Jean-Michel Guieu, *Le Rameau et le glaive glaive: les militants français pour la Société des Nations* (Paris: Presses de Sciences Po, 2008); Rémi Fabre, “Un exemple du pacifisme juridique: Théodore Ruyssen et le mouvement “la paix par le droit” (1884-1950), *Vingtième siècle* 39 (1993), 38-54; Carl Bouchard, *Le citoyen et l'ordre mondial (1914-1919): le rêve d'une paix durable au lendemain de la Grande Guerre, en France, en Grande-Bretagne et aux États-Unis* (Paris: A. Pedone, 2008), N. Ingram “Pacifisme Ancien Style, ou le pacifisme de l'Association de la paix par le droit”, *Matériaux pour l'histoire de notre temps* 30 (1993), 2-5.

¹¹ Jackson, *Beyond the Balance of Power*, 427-513.

¹² Blaise Pascal, “Pensées 298-99” in P. Sellier (ed.), *Pensées, opuscules et lettres* (Paris, 2010).

¹³ France, Archives du Ministère des Affaires Étrangères: Série: *Société des Nations*, vol. 10, “Textes adoptés par la Commission interministérielle française de la Société des Nations: exposé des principes sur lesquels peut être constituée la Société des Nations”, 8 June 1918.

¹⁴ On this question, see especially Georges-Henri Soutou, *La Grande illusion: quand la France perdait la paix* (Paris: Éditions de Noyelles, 2015) and David Stevenson, *French War Aims against Germany 1914-1919* (Oxford: Oxford University Press, 1982).

favoured by French internationalists would endure and re-emerge to play a central role in French foreign policy from 1924 onward.

The French emphasis on the rule of law and the use of force was utterly anathema to Woodrow Wilson's ideas concerning the League of Nations. At meetings of the League of Nations Commission at the Paris Peace Conference, Wilson rejected the French proposal out of hand. He favoured instead a League that would serve as the engine for a moral transformation of world politics. Wilson argued that the censure of "international public opinion" would constitute a sanction more powerful than the use of force to deter potential breakers of international law. Britain and the Dominion Powers supported the American president at every turn. Canadian Prime Minister Robert Borden went so far as to characterize "the public opinion of the world" as the international system's "sovereign power" and "silent mentor."¹⁵

It was this vision of international organisation, rather than the more legalistic and muscular French conception, that animated the League Covenant. The League Council was given powers only to recommend measures to enforce its decisions (or those of international legal bodies). The regime of political, economic and military sanctions envisaged in the French proposal was rejected in favour of a League that would secure the observance of international law through the exertion moral pressure. Powers that were committed to collective security would spend much of the next 15 years seeking ways to close the above 'gaps' in Articles 10-16 of the Covenant, which laid out procedures for collective action to impose the decisions of the League Council.¹⁶

Yet even the very restrained conception of the role of the League under the Covenant is unacceptable to the authors of *The Internationalists* because it did not go further to outlaw war altogether. "To solve the problem of war," Hathaway and Shapiro lament, "the League's answer seems to have been ... more war" (106). This observation underpins their argument concerning the epochal importance of the Kellogg-Briand Pact, which did place war outside the law. Yet the significance of this aspect of the Pact is highly debatable. Aggressive war is now illegal, but the use of force is by no means absent from the panoply of powers attributed to the United Nations and its Security Council. Article 43 of the UN Charter stipulates that "All members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security."¹⁷ The linkage of international justice with international force is clear. The collective security mechanisms and processes of the UN Charter are thus far closer to that recommended by French internationalists in 1919 than most scholars have recognised.

All of this is to argue that the mere fact of outlawing war may not be the central causal element in the decline of inter-state war. A more persuasive interpretation would emphasise the impact of wars of unprecedented scale and destructiveness in creating the political conditions for internationalist projects to flourish. This happened after the Revolutionary and Napoleonic Wars, which lasted twenty-five years and laid waste to much of Europe before they were brought to an end at the Congress of Vienna in 1814-1815. The world witnessed a similar moment after the First World War, which witnessed the birth of the League of Nations and subsequent efforts to consolidate international peace such as the Kellogg-Briand Pact.

¹⁵ *The Public Opinion of the World: Its Sovereign Power, and its Silent Mentor. An address by Sir Robert Borden at the Annual Meeting of the British and Foreign Bible Society*, London, 2 May 1917 (London: British and Foreign Bible Society, 1917).

¹⁶ See, for example, Mark Mazower, *Governing the World: The History of an Idea* (London: Penguin, 2012), 116-53 and Zara Steiner, *The Lights that Failed: European international history, 1919-1933* (Oxford: Oxford University Press, 2005), 565-632.

¹⁷ UN Charter, Chapter VII, Article 43. The reference to 'special agreement' is not intended to limit the commitment of states after the fashion of Articles 13, 15 and 16 of the League Covenant. Point 2 of Article 43 stipulates that 'Such agreement or agreements shall govern the numbers and types of forces, their readiness and general location, and the nature of the facilities and assistance. See the text at <https://www.un.org/en/sections/un-charter/un-charter-full-text/>.

The end of the Second World War provided another such moment. One hopes that it does not take another global cataclysm to remind citizens and world leaders of the importance of international structures to maintain peace and facilitate cooperation between states as we move toward the third decade of the twenty-first century.

Participants:

Oona Hathaway is the Gerard C. and Bernice Latrobe Smith Professor of International Law and Professor of Political Science at Yale Law School and Director of the Yale Law School Center for Global Legal Challenges.

Scott Shapiro is the Charles F. Southmayd Professor of Law and Professor of Philosophy at Yale Law School and Director of the Yale Center for Law and Philosophy.

Peter Jackson is Professor of Global Security at the University of Glasgow. He is currently Co-director of the Royal Society of Edinburgh-funded Research Network “Visions of Global Order: Peace, Law and Security after the First World War” and Principal Investigator for the ARHC-funded project “The Weight of the Past in Franco-British Relations since 1815.” He is the author of *Beyond the Balance of Power: France and the Politics of National Security in the Era of the First World War* (2014), *La France et la menace nazie. Renseignement et politique, 1933–1939* (2017), and numerous articles and book chapters on international history and intelligence studies.

Daniel Gorman is a Professor of History at the University of Waterloo, and the Director of the Ph.D. program in Global Governance at the Balsillie School of International Affairs. He is the author of *International Cooperation in the Early Twentieth Century* (Bloomsbury, 2017), *The Emergence of International Society in the 1920s* (Cambridge University Press, 2012), and *Imperial Citizenship: Empire and the Question of Belonging* (Manchester University Press, 2007). He is presently completing a book on decolonization and international governance after the Second World War.

John Mueller is professor of political science at Ohio State University and a senior fellow at the Cato Institute. He is the author of *War and Ideas* (Routledge, 2011), *Atomic Obsession* (Oxford University Press, 2009), *The Remnants of War* (Cornell, 2004), *Retreat from Doomsday* (Basic Books, 1999), *War, Presidents and Public Opinion* (Wiley, 1973), *Astaire Dancing* (Alfred A. Knopf, 1985) and, with Mark G. Stewart, *Terror, Security, and Money* (Oxford University Press, 2011), *Chasing Ghosts* (Oxford 2015), and *Are We Safe Enough?* (Elsevier, 2017).

Stephen Wertheim is a Visiting Assistant Professor in History at Columbia University and a Visiting Scholar at the Saltzman Institute of War and Peace Studies. He is currently completing a book on the birth of U.S. global supremacy in World War II. His scholarly articles have appeared in *Diplomatic History*, *Journal of Genocide Research*, *Journal of Global History*, and *Presidential Studies Quarterly*. Stephen has also written essays and reviews in *Dissent*, *Foreign Affairs*, *The Nation*, *The New York Times*, *The Times Literary Supplement*, *War on the Rocks*, and *The Washington Post*. He was previously a permanent Lecturer in History at Birkbeck, University of London; a Junior Research Fellow at King’s College, University of Cambridge; and a Postdoctoral Research Associate at Princeton University. Stephen received a Ph.D. in History from Columbia University in 2015.

REVIEW BY DANIEL GORMAN, UNIVERSITY OF WATERLOO

Oona Hathaway and Scott Shapiro's *The Internationalists* makes an elegant and ambitious argument. Their thesis is that from the seventeenth century into the early twentieth century, international relations was characterized by war and conflict sanctioned by states' legal recourse to war under the terms of what the Dutch legal theorist Hugo Grotius termed the 'law of nations.' This 'Old World Order,' as Hathaway and Shapiro describe it, authorized territorial conquest. It was also Eurocentric, and by the early twentieth century its proponents extended its principles around the world through imperial rule. The Old World Order reached its apotheosis, or rather nadir, with the First World War. Liberal internationalists in America and Europe blamed the unrestrained rules of the Old World Order for the war's outbreak and cataclysmic destruction, and worked to build a new international system that constrained states' ability to employ mass violence. These efforts have been much studied by historians, who have generally focused on the creation of the League of Nations and the principle of collective security.¹ Hathaway and Shapiro recognize the contributions played by the League in restraining force and fostering internationalism, incomplete and often unsuccessful as they were. However, it is the Kellogg-Briand Pact (also known as the Paris Peace Pact) of 1928 that they argue was the radical post-First World War diplomatic initiative that revolutionized the conduct of international relations. The Kellogg-Briand Pact is well-known to international historians and international relations specialists (Robert Ferrell's 1952 classic *Peace in Their Time: The Origins of the Kellogg-Briand Pact* still warrants attention today),² yet as Hathaway and Shapiro accurately note, it is conventionally written off as inconsequential.

They argue instead that the Pact was the key moment in the transition from an Old World Order predicated on war and conflict to a 'New World Order' based upon the outlawry of war and the normative acceptance of international cooperation. Hathaway and Shapiro's New World Order was and is organized around the prohibition of force. Conquest was deemed illegal, aggressive war was criminalized, coerced agreements were denounced, and sanctions and other forms of 'outlawry' (the process by which states were denied the benefits of membership in the international community) emerged as the preferred tools of enforcement. The key architects of this transition, according to Hathaway and Shapiro, were not statesmen or politicians, nor intellectuals, pacifists, social movements, or revolutionaries—American President Woodrow Wilson, Bolshevik leader Vladimir Lenin, German Foreign Minister Gustav Stresemann, and other standard figures of interwar politics play supporting roles in their argument—but publicists and international lawyers such as the Chicago lawyer Salmon Levinson, the Carnegie Endowment for International Peace historian James Shotwell, and the international law scholars Hersch Lauterpacht and Hans Kelsen. These men were the 'norm entrepreneurs' of outlawry, articulating the tenets and legal principles which were taken up by politicians before and after the Second World War, as well as prosecutors at the International Military Tribunal at Nuremberg, as the cornerstone of the New World Order.

Their thesis is convincing, but even writing as someone who shares the authors' view that the Kellogg-Briand Pact deserves more than the status of naïve curio that it is usually accorded by international historian and especially international relations scholars, I think the claims that the Pact gave "birth to the modern global order" (xv) and that it was "among the most transformative events in human history" (xiii) are overstated. While it is demonstrably true that aggressive war declined after the Pact's ratification, and that a normative prohibition against aggressive war eventually resonated throughout the international system, as Hathaway and Shapiro themselves observe, it took the international crises of the 1930s and the global catastrophe of the Second World War in the 1940s for these shifts to become truly transformative.

¹ For a summary of recent work on these themes, see Benjamin Auberer, Timo Holste and Carolin Elisabeth Liebisch, eds., "Situating Internationalism 1919–1940s," special volume of *New Global History* 10:3 (2016) and select essays in Patricia Clavin and Glenda Sluga, eds., *Internationalisms: A Twentieth-Century History* (Cambridge: Cambridge University Press, 2016).

² Robert Ferrell, *Peace in Their Time: The Origins of the Kellogg-Briand Pact* (New Haven: Yale University Press, 1952).

This begs the obvious historical question of whether the Pact itself played a decisive causal role in occasioning the shift to a New World Order, or whether, as I would argue, that the Pact (alongside several other interwar initiatives in international cooperation) established the framework of an alternative international order that was only implemented due to the victorious Allied powers' varied but collective post-Second World War interests in preventing international conflict through institutions and norms that they hoped would establish collective security by binding themselves to each other through international cooperation. Absent the Second World War, the Kellogg-Briand Pact on its own was unlikely to have banished aggressive war as a normative feature of international affairs, as the history of the 1930s demonstrates. The question then is not whether the Pact itself was the transformative event in modern international history, as Hathaway and Shapiro argue, but what was its comparative role relative to other historical factors in bringing about an international system where international cooperation has replaced international conflict as the prime directive, as their book's evidence in fact reveals, in my view quite decisively. Hathaway and Shapiro's argument thus succumbs to what I would call the 'dependent variable fallacy,' the idea that one historical factor explains multiple large scale events and developments. If we view history instead as an interplay of many independent variables, a greater appreciation of the multiple structural and contingent factors that led to the normative prohibition of war in the international system is possible.

In my view, the Kellogg-Briand Pact was not a historical turning point itself, but rather a significant part of a broader package of interconnected interwar international cooperative initiatives which marginalized aggressive conquest. If states could secure their interests through non-violent means, aggressive war became less attractive. This was true even during the Old World Order, as the imperial historians John Gallagher and Ronald Robinson argued long ago when they described Britain having achieved imperial paramountcy in the nineteenth century "by *informal* means if possible, or by *formal* annexations when *necessary*."³ Inter-state war was more frequent in the Old World Order because states had fewer means of pursuing and securing their interests besides through violence—it does not follow that they therefore preferred violence.

Hathaway and Shapiro argue persuasively that the Kellogg-Briand Pact in some ways worked *too* well, in that it encouraged the de-legitimization of aggressive war without replacing it with an alternate means of effecting change or mediating disputes between states. Interwar sanctions were ineffectual, as were half-hearted attempts by the liberal democracies to prevent conflict through negotiation. I would agree that the Pact played an important role in undermining the principles of the Old World Order, but for the reasons I outline above, it is less apparent that the unfathomable global chaos and destruction of the 1930s and 1940s is evidence that the Pact was working too well, but rather that in the short term, it did not work at all. Again, it was the Second World War's international settlement that provided the conditions for the prohibition of interstate war, not the other way around.

Another feature of the book's argument which will particularly strike readers outside the United States is its American-centrism. American actors certainly played an important role in forming the outlawry movement and creating the Pact, as well as in implementing its terms and spirit in a post-1945 international system where the United States was a hegemon, but they were not alone. The French statesman Aristide Briand's motivations are noted briefly, but the book gives little indication of how outlawry was consistent with his parallel vision of European integration, part of a larger European interwar discourse on peaceful integration.⁴ Voices as varied as European Union advocates, world federalists, and

³ John Gallagher and Ronald Robinson, "The Imperialism of Free Trade," *The Economic History Review, New Series* 6:1 (1953), 3.

⁴ See Mark Hewitson and Matthew D'Auria, eds., *Europe in Crisis: Intellectuals and the European Idea, 1917-1957* (New York: Berghahn, 2012).

international socialists among others all believed that ever-closer integration would curb states' aggressive tendencies.⁵ Americans played a role in these movements, but their voice was one among many. Outside Europe, transnational cooperative visions also emerged in Japan, the Ottoman Empire, and throughout the colonial world. Pan-Asianism, pan-Africanism, international trade union solidarity, and innumerable other global movements and alliances contributed to the collective diminishment of armed state conflict. In this wider global perspective, outlawry appears as one part, albeit an important one, of a larger mosaic.

Outlawry was thus important, but it was not the only, and not necessarily the most significant, interwar international cooperative initiative. In part this was because its origins were as much conservative and reactionary as they were radical (as the book's title has it), as Hathaway and Shapiro's evidence shows. The American Secretary of State Frank Kellogg and Briand viewed the Pact as a means of cementing the then international status quo, not ushering in a new pacific international system, while isolationists like Senator William Borah, who, as Hathaway and Shapiro recount, was a vocal opponent of the League of Nations, nonetheless supported outlawry for its protectionist and defensive potential, not as a revolutionary means of fostering international cooperation. Even Levinson and Shotwell, though both progressive proponents of international change, were nonetheless elites who had the ear of the White House (unlike the hundreds of Americans who sent Presidents Calvin Coolidge, Herbert Hoover, and Franklin D. Roosevelt unsolicited world order and peace proposals) and saw outlawry as consistent with maintaining American political interests.

While its focus is primarily on American actors, one of the book's strongest sections is its analysis of how Japan's imperial expansionism in the 1930s and 1940s revealed the tensions unleashed by the transition between the Old and New World Orders. Although late Tokugawa Japanese leaders resisted American Commodore Matthew Perry's attempt in 1853 to force Japan to trade with the outside world, Meiji leaders embraced the spirit and practice of internationalism and joined the international order. While Japan had been a minor member of the victorious Allied side during the First World War, it failed to secure both its territorial and racial equity goals at Versailles. It subsequently drifted towards the status of aggrieved power, and pursued imperial aggrandizement under the logic of the Old World System while some of the Western powers began to embrace limitations on imperial conquest. Japan was thus both dumbfounded and outraged when its conquest of Manchuria was denounced by League of Nations members who themselves continued to be imperial powers. Where Japan had embraced international law as a means of entering the international system as a putative equal, imperial Japanese politicians now turned to the principle of *rebus sic stantibus*, a vital change of circumstances, to justify their renunciation of international law.

The Stimson Doctrine, the policy of non-recognition of territory claimed through aggressive war adopted by the United States in 1932, was one of the first steps in 'locking in' the principle of outlawry. The United States' non-recognition of Japan's proclaimed Manchurian state of Manchukuo began the process of normalizing the Kellogg-Briand Pact's terms in international affairs. Yet progress was slow. The League's ineffectual response to Italy's invasion of Abyssinia in 1935, the outbreak of full-blown war between Japan and China in 1937, and the series of German territorial conquests which finally precipitated general war in 1939 all made a mockery of notions of outlawry. No one in 1940 spoke of the promise of the Kellogg-Briand Pact as Axis armies were on the march. The Pact was stillborn, and tragically had to wait until the Second World War burned the Old World Order to the ground before its ideas could begin to take root.

Important first steps were taken through the Atlantic Charter, which, at Roosevelt's insistence and with British Prime Minister Winston Churchill's grudging acquiescence, proclaimed the rejection of territorial aggrandizement. Next was Nuremberg. Inspired by interwar arguments by figures such as the Czech lawyer Bohuslav Ečer and the American lawyer William Chanler, who claimed that the Kellogg-Briand Pact had removed the legal immunity aggressors had theretofore enjoyed, it was at the International Military Tribunal that the prohibition against aggressive war was decisively embedded in

⁵ See Or Rosenboim, *The Emergence of Globalism: Visions of World Order in Britain and the United States, 1939–1950* (Princeton: Princeton University Press, 2017) and Talbot Imlay, *The Practice of Socialist Internationalism: European Socialists and International Politics, 1914–1960* (Oxford: Oxford University Press, 2018), Part I.

international law through the charges faced by the fourteen major Nazi defendants. While the E  er-Chanler theory was rejected by the Tribunal's justices in favour of the argument that the evil nature of the acts of the accused merited retroactive justice, Nuremberg nonetheless established the question of responsibility for aggressive war as consequential in international law. Unlike the peace settlement after the First World War, when the criminal prosecution of the German Kaiser Wilhelm II was briefly mooted by the Allies but ultimately came to nothing, the surviving Nazi leaders were held personally responsible for their conduct as officers of the state or military. The German legal theorist and Nazi party member Carl Schmitt's arguments about sovereignty and the state's right to declare a state of exception which freed it from systemic norms were marginalized in favour of the imperatives of peaceful change, outlawry, and what would by the 1970s be referred to as 'embedded liberalism.' The prohibition against aggressive war would henceforth be enforced by shaming its propagators and denying them the benefits of membership of the increasingly interconnected international system. The post-war system may have privileged the United States and its Allies, disadvantaged societies in the Global South, and favoured the principles of capitalism over alternate forms of economic organization, but most states accepted sooner or later that despite any reservations they may have held, it was better to be a member of the system than be outside of it. North Korea is a model for no one.

Hathaway and Shapiro's work also makes important contributions to the growing historiography on the historical genealogy of international law. They see international law and international lawyers playing a decisive, if evolving, role across the divide between Old and New World Orders. This runs counter to the argument of scholars like Martti Koskenniemi, who argue that international law's significance in shaping the conduct of international relations receded after the Second World War, eclipsed by emerging systems of global governance which privileged the expertise of epistemic communities rather than the universal claims of international law.⁶ This debate is evident in regard to one aspect of contemporary international relations which Hathaway and Shapiro do not have space to analyze, namely humanitarian intervention. American-led NATO interventions in the former Yugoslavia and Libya, for instance, have laid bare the logical inconsistency in the New World Order between the inviolability of state sovereignty and some members of the international community's moral imperative to intervene in the domestic affairs of states that persecute their own citizens. Hathaway and Shapiro themselves provide one answer to squaring this circle: international law.

Hathaway and Shapiro's argument that the Kellogg-Briand Pact led ultimately to a decline in international territorial conquest is persuasive in isolation, but what of other historical factors? The internationalization of the nation-state model, as Hedley Bull argued, did much to create a single international system with decreased intra-state violence.⁷ This was because the international system during and before the interwar period was one comprised largely of empires, in which territory was in a constant state of flux and sovereignty was only recognized in some parts of the globe. Although spatially expansive, empires face what Dominic Lieven has termed the "dilemma of imperialism,"⁸ namely the challenge of exercising sovereign control over their territory and multicultural subject populations with a broad but shallow governance infrastructure ultimately dependent on the collaboration of local actors. Compare the bureaucratic size and reach of even a weak state in the late twentieth century with the largest early twentieth century empires, whose impressive scale masked their struggles to maintain imperial legitimacy and authority. What happened during the middle decades of the twentieth century was not that the Kellogg-Briand Pact changed the world, but that the process of territorialization about which Charles Maier has

⁶ Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001).

⁷ Hedley Bull, *The Anarchical Society* (London: Macmillan, 1977).

⁸ Dominic Lieven, "Dilemmas of Empire 1850–1918. Power, Territory, Identity," *Journal of Contemporary History* 34:2 (1999): 163–200.

written came to its conclusion.⁹ As states became more efficient at governing their own territory, they had less incentive to capture territory from their neighbours. Seen in this light, the perennial conflict of the Old World System was less about the 'law of nations,' and more about the relative weakness of polities to control their own territory.

Also important in the transition to the New World Order was the sequential emergence of the interwar minorities system and the postwar international human rights regime. The minorities system struggled with many internal inconsistencies, much like the League of Nations within which it was based, but it was important in raising the normative status of sub-state identity groups in the international system. In so doing, it provided one, though not the only, inspiration for the evolution of post-1945 international human rights, which extended normative protections to individuals. Both of these regimes constrained states' ability to conduct aggressive war, and have proved as significant in reducing the frequency of intra-state conflicts as has outlawry.

As Hathaway and Shapiro elucidate in describing how the terms of the New World Order are enforced, 'outcasting' has proven to be a more stable means of maintaining international peace and equilibrium than the 'law of nations' advanced by Grotius. Even exceptions such as Russia's seizure of Crimea prove this rule, for while the international community is unwilling to overturn Russia's occupation by force, it has punished Russia severely, and over the long term, through targeted economic sanctions that serve as a warning to other international actors that the old game of territorial conquest is not worth the candle in the New World Order.

Full-throated assertions of Hobbesian sovereignty have become more commonplace in international discourse in recent years, however, emanating from metropolises as varied as Moscow and Khartoum, Beijing and Washington. In a post-Brexit era where a slim majority of voters in one of the Western alliance's key democracies opted to segregate themselves from integration with Europe, how robust are the cooperative networks which underpin Hathaway and Shapiro's New World Order? While it is true that the World Trade Organization's dispute settlement mechanism allows for the peaceful settlement of trade disputes, it is not clear that this is a long-term outcome of the Kellogg-Briand Pact (343-344). Global trade was as free, if not freer, in the decades before the First World War under the rules of the Old World Order, so free trade itself is independent from outlawry. It might be more accurate to argue that free trade has proven more resilient to protectionist challenges under the rules of the New World Order.

Are the normative changes that Hathaway and Shapiro detail permanent and transformative, or situational and transitory? The book includes a brief concluding nod to the election of President Donald Trump and the spectre of nationalist revanchism in a New World Order predicated on cooperation rather than brinkmanship and conflict. Many political commentators, as well as historians such as Jeremy Adelman and my fellow review contributor Stephen Wertheim, have also perceptively drawn attention to the different ways in which Trump's election augurs a potential shift in America's place within the New World Order.¹⁰

I have spent much of this review suggesting ways in which Hathaway and Shapiro's argument is in my view over-drawn. These are not faults, however, but testimony to some of the important questions that emerged from my reading of this expansive, gracefully written, and well-researched book. If their argument is stretched thin in places, it is only because they have asked and answered a large and important historical question—why has inter-state war declined. *The Internationalists*

⁹ Charles Maier, "Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era," *The American Historical Review* 105:3 (2000): 807-831 and in expanded form, Maier, *Once Within Boundaries: Territories of Power, Wealth, and Belonging* (Cambridge: Harvard University Press, 2016).

¹⁰ Jeremy Adelman, "Is Global History Still Possible?," *Aeon*, 2 March, 2017, <https://aeon.co/essays/is-global-history-still-possible-or-has-it-had-its-moment>; Stephen Wertheim, H-Diplo/ISSF Policy Series, America and the World—2017 and Beyond, "Donald Trump Versus American Exceptionalism: Toward the Sources of Trumpian Conduct," 1 February, 2017, <https://issforum.org/roundtables/policy/1-5k-trump-exceptionalism>.

is an ambitious book in the best sense of that word. Jo Guldi and David Armitage have recently touched off a contentious debate amongst historians about the relative merits of long-term historical analysis.¹¹ *The Internationalists* demonstrates many of the benefits of such an approach, as well as some of the drawbacks. For those historians drawn to historical syntheses which track global changes over long periods of time, Hathaway and Shapiro's work will be welcome. It also weighs in on the side of norms over power in the perennial international relations debate between liberals and realists. While the book's argument over-reaches in places, in placing the Kellogg-Briand Pact in a longer-term historical perspective it helps demonstrate how and why a nineteenth century international system determined by the dictates of power transitioned into one where power has been harnessed, though by no means abolished, by the cooperative impulses and norms of international integration.

¹¹ Jo Guldi and David Armitage, *The History Manifesto* (Cambridge: Cambridge University Press, 2014), https://www.cambridge.org/core/services/aop-file-manager/file/57594fd0fab864a459dc7785/historymanifesto_2Oct2014.pdf.

REVIEW BY STEPHEN WERTHEIM, COLUMBIA UNIVERSITY¹

In June 2016, shortly after Donald Trump secured the Republican nomination for president, Barack Obama's ambassador to the United Nations (UN) flew to Berlin. Like her boss, Samantha Power was more than just a political figure; she was the closest thing the foreign-policy world had to an icon. At the turn of the twenty-first century, Power had made her name urging U.S. leaders to abandon the narrow pursuit of national self-interest and instead lead a crusade to rid the world of genocide. Through her advocacy and her best-selling, Pulitzer-winning book, *A Problem from Hell*,² Power did perhaps more than anyone else to define a new generation of liberal internationalists—intellectuals and policymakers who sought to imbue American power with renewed moral purpose after the Cold War.³ Now, as candidate Trump denounced “the false song of globalism,” Power rose to the stately stage at the American Academy in Berlin to deliver what one might have expected to be a rousing response.³

Yet Power delivered something else: a rearguard defense of traditional diplomacy. Where she had once castigated U.S. presidents for failing to stop genocide “again and again” after 1945, she now extolled the “assumptions that have undergirded U.S. foreign policy across party lines since the Second World War.”⁴ The Western alliance that had tolerated mass killing became the “indispensable transatlantic partnership.” Power's vision had evolved. So had her idiom. Power used her address to outline an “increasingly complex agenda.” She paid homage to “the inevitable trade-offs.”⁵ With the diplomat-speak out of the way, a beaming Power then fulfilled the purpose of the affair: she accepted the Henry A. Kissinger Prize, posing with Kissinger himself.

Power's personal odyssey, or hypocrisy, depending on one's view, represents the journey of liberal internationalism in the past few decades. The brand of internationalism that brought her to prominence—along with others like Michael Ignatieff, her former Harvard colleague, and Susan Rice, her Obama administration ally—is in crisis. Even before Trump descended his escalator, it was dissolving into something like its opposite: an amoral politics of power. Having placed their faith in righteous military intervention, and then witnessed devastating results in Afghanistan, Iraq, and Libya, liberals have become pragmatic executors of the status quo. “Don't do stupid shit,” as Obama summed up his non-doctrine.⁶

Those who aspire to do better, however, face a genuine quandary. Now that the first attempts at post-Cold War foreign policy have exhausted themselves, what should be America's purpose in the world? If this question sounded academic a few years ago, it has acquired urgency in the era of Trump. Unless Trump is to be mirrored by an inward turn on the left, his

¹ The author and the editors of *The Nation* have kindly agreed to allow H-Diplo to publish this review in slightly altered form. It first appeared in *The Nation*, December 3/10, 2018, 27-32.

² Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002); see Stephen Wertheim, “A Solution from Hell: The United States and the Rise of Humanitarian Interventionism, 1991-2003,” *Journal of Genocide Research* 12:3-4 (September-December 2010): 149-172.

³ Donald Trump, Foreign Policy Speech, *New York Times*, 27 April 2016, <https://www.nytimes.com/2016/04/28/us/politics/transcript-trump-foreign-policy.html>.

⁴ Samantha Power, “Stopping Genocide and Securing ‘Justice’: Learning by Doing,” *Social Research* 69:4 (2002), 1107; Samantha Power, Remarks on “Twenty-First Century Realism,” American Academy in Berlin, 8 June 2016, <https://www.belfercenter.org/publication/remarks-ambassador-samantha-power-twenty-first-century-realism-awarding-2016-henry>.

⁵ Samantha Power, Remarks on “Twenty-First Century Realism.”

⁶ Jeffrey Goldberg, “The Obama Doctrine,” *The Atlantic* (April 2016), <https://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/>.

opponents require a new vision of global engagement, one that not only counters right-wing nationalism but improves on what came before.

A new book has come along to suggest an answer. This manifesto, fittingly titled *The Internationalists*, attempts to recast liberal internationalism as a project of ending wars, not starting them. Written by two Yale Law professors, Oona Hathaway and Scott Shapiro, the book has attracted notice for its eye-catching claim that the scarcely remembered and otherwise ridiculed Paris Peace Pact of 1928—also known as the Kellogg-Briand Pact after its lead diplomats, U.S. Secretary of State Frank Kellogg and French Foreign Minister Aristide Briand—sparked a revolution in world history. The Pact, the book argues, put a near-total end to once rampant wars of conquest by declaring war to be illegal. But the book's significance may be larger still.

By turning to history, *The Internationalists* opens up a possible direction for American foreign policy going forward. Rather than endorse humanitarian interventions that threaten state sovereignty, Hathaway and Shapiro suggest a more modest agenda: buttress the international system as it stands. Better to uphold norms against conquest than to launch semi-conquests of our own. Yet like the liberal interventionists they seek to supersede, the authors continue to overrate American power as the guarantor of global norms. Their reclamation of past internationalists turns out, on inspection, to be suspiciously nationalist. In the name of recovering lost alternatives, they divert us from more potent replacements, then and now.

Outlawing war, halting conquest

Hathaway and Shapiro open with a problem of enduring importance in global history. For centuries, they note, wars of conquest were the way of the world. The powers of the West seized land from the rest, placing the majority of humanity under the colonial yoke. They even made a habit of invading and conquering the territories of their fellow Westerners. All this was perfectly legitimate, at least according to the finest legal minds of the time. Rather than seeking to end war and conquest, jurists like Hugo Grotius judged them to be sound methods of diplomatic conduct. What's more, when states went to war, international law required third parties to stay neutral, prohibiting the international community from punishing aggressors or aiding their victims. The effect was to quarantine wars—to prevent local conflicts from escalating into global ones—but at the price of accepting whatever wars were fought.

If this logic sounds strange, that's because the international order has changed. Today we regard war as anomalous and turn to law in order to stop it. Stopping war has become the business of the world, even at the risk of inflating small, regional wars into unlimited and global ones. Although violence plainly persists, Hathaway and Shapiro are encouraged by the results. They focus on wars of conquest, which, according to the datasets they have assembled, have plummeted in frequency. After occurring every ten months on average from 1816 to 1928, the pair claim, wars of conquest have slackened to a rate of once in four years in the second half of the twentieth century. How, they ask, did wars of conquest all but disappear? Why do states now rarely wage armed conflicts in order to acquire territory—and when they do, why do they often face international resistance and fail to retain their gains?

Hathaway and Shapiro answer that we owe the demise of wars of conquest to a small circle of internationalists, who bent the self-interest of the great powers toward peace. The pivotal year was 1928. Coming out of World War I, the United States and France sought to form a defense alliance. After failing to reach an agreement, however, they pursued a fallback option at the urging of transatlantic jurists. Instead of pledging to defend one another by force, America and France chose simply to renounce the use of force between them. Then U.S. Secretary of State Frank Kellogg and his French counterpart, Aristide Briand, made a radical move: they opened their Paris Peace Pact to all comers. Everyone who signed on thus pledged not to resort to war against any other signatory. Soon almost all states joined in (although the many peoples under colonial rule

lacked the standing to do so). In effect, the international community lined up behind what the Pact announced as the “frank renunciation of war as an instrument of national policy.”⁷

For Hathaway and Shapiro, the Pact was an epochal achievement, ranking among “the most transformative events of human history, one that has, ultimately, made our world far more peaceful” (xiii). Most scholars have thought otherwise, when they’ve bothered to think about the Pact at all. For them, it remains notorious as an exercise in empty moralism—an “international kiss,” Missouri Senator James Reed jeered—because it contained no provisions for its enforcement.⁸ Yet Hathaway and Shapiro see this omission as a virtue. As they argue in an incisive chapter, the pact won over states with divergent agendas because it consisted of pure legal principle and fudged the whole question of force.

The result was an agreement built on contradictory visions. One of the Pact’s architects, James Shotwell, a Columbia University historian and transatlantic networker, hoped the Pact would be a stepping stone by which America might join a scheme of forcible sanctions like the League of Nations, which the Senate had declined to join after World War I. Others, meanwhile, valued the Pact for just the opposite reason. Salmon Levinson, a corporate lawyer in Chicago, believed that law could bring peace by molding people’s minds and habits. Armed force—deployed, necessarily, by the powerful—would only stifle progress toward moral enlightenment. Levinson, following the philosopher John Dewey, opposed the League of Nations and Shotwell’s other plans to outlaw war through coercive sanctions. He derided one such scheme for using the “soft glove” of outlawing war in order to “conceal its iron hand of world control by force” (118).

The Pact bracketed these differences in order to appease both sides, and it sailed through the Senate, 85 to 1. Born in contradiction, the Pact nonetheless became the first international instrument to declare war illegal. In this respect, the pact went further than the League of Nations, which required states only to attempt to settle disputes through certain processes, from which they might emerge free to wage war legally. Only the pact, Hathaway and Shapiro insist, declared war itself illegal, and forced the rest of international law and politics to catch up.

Meeting—or conceding—the Schmittian challenge

It’s a daring argument and challenge to the “realists” of international relations schools, who insist, as Harvard’s Stephen Walt does, that states follow the iron dictates of self-interest rather than the gentle pressure of norms. For Walt, the crucial test of *The Internationalists* would be whether national leaders, after the 1928 Pact, contemplated launching wars of conquest but refrained from following through out of fealty to the law.⁹ The book doesn’t offer such evidence, so Walt is declining to rewrite his lectures. But Hathaway and Shapiro retort that law operates more subtly than such realists think: it shapes how states define their self-interest in the first place, rather than acting as a separate and opposing force.¹⁰ In a world that no longer recognizes conquests as legal or acceptable, most states will not want undertake them. International law can work, they argue, and without an army to back it up.

Perhaps so. Other scholars have similarly argued that law changes politics by channeling interests in new directions. But what Hathaway and Shapiro add is that *this* law, the Paris Peace Pact, changed world politics dramatically. Here they

⁷ General Treaty for Renunciation of War as an Instrument of National Policy, 27 August 1928, in *League of Nations Treaty Series* 94 (1929), 59.

⁸ *Congressional Record*, 70th Cong., 2nd Sess., January 5, 1929, 1186.

⁹ Stephen Walt, “There’s Still No Reason to Think the Kellogg-Briand Pact Accomplished Anything,” *Foreign Policy*, 29 September 2017, <http://foreignpolicy.com/2017/09/29/theres-still-no-reason-to-think-the-kellogg-briand-pact-accomplished-anything/>.

¹⁰ Oona Hathaway and Scott Shapiro, “What Realists Don’t Understand About Law,” *Foreign Policy*, 9 October 2017, <http://foreignpolicy.com/2017/10/09/what-realists-dont-understand-about-law/>.

struggle, starting with the outcome they seek to explain. Even if the pair were correct to credit the Pact with halting wars of conquest, they neglect that its original intention was grander. The Pact did not specifically target “conquest,” a term that appears nowhere in its text.¹¹ Instead, it outlawed war, full stop—including wars undertaken for any aggressive purpose, not just land hunger. Looking to tell a tale of progress, Hathaway and Shapiro move the goalposts from *all* wars to those of conquest, thereby sidelining the many wars fought for non-territorial aims, whether strategic, economic, ideological, or biopolitical. Only in this way can they turn the pact, and the world we have today, into a putative triumph.

Nor does the pact deserve the importance that Hathaway and Shapiro impute to it. Eager to rescue it from oblivion, they demonstrate how seriously many contemporaries continued to take it for the two decades after 1928. Yet they fail to show that the Pact was central or even necessary to the transformation of the laws of war, a process that historians date to the entire period spanning the two world wars and attribute to a variety of sources, including other legal instruments.

World War I, for example, began with President Woodrow Wilson proclaiming strict neutrality. It ended with the United States joining the “war to end wars,” the Allies pledging not to annex new territory, and the liberal states creating the League to prohibit and punish future war-making, even if some loopholes remained. At the level of norms, never mind diplomatic practice, the creation of the League marked a vaster change than did the signing of the Paris Peace Pact. The laws of war and conquest traveled a far greater distance from 1914 to 1919 than in the five years before or after the Pact—a period that ends in 1933, when Japan completed its conquest of Manchuria and Adolf Hitler took power in Germany.

Indeed, Hathaway and Shapiro have to explain why a treaty signed in 1928 caused wars of conquest to begin to halt only two decades later, after the Axis powers had invaded far and wide and the Red Army had planted itself in Eastern Europe. They claim that the Pact, given its momentous nature, took time to win genuine acceptance, and that it led to the creation of the United Nations, which helped to end conquests after the dust of World War II had settled. But this long chain of causal links (leaving aside, for the moment, whether they actually connect) undercuts the author’s effort to single out the Pact and the idealistic jurists who shaped it.

In fact, when one considers the history of this period on its own terms, something like the opposite story makes as much sense. By outlawing war, one might argue, the great powers sought to freeze the territorial gains they had already made. This attempt, in turn, spurred their competitors to grab everything they could. As historians like Adam Tooze have shown, the Axis powers feared that if they did not gamble on rapid conquest, they would drop forever to the second tier, below the internationalist poseurs who had already scrambled for Africa, Asia, and North America and now pronounced their consciences shocked when others followed suit.¹² If the pact had any direct effect, then, it was this: to spur Germany, Japan, and Italy to confiscate imperial hinterlands of their own before it was too late. Had the Axis prevailed, the effort to outlaw war would have come to nothing, except to produce undeclared wars of conquest, shorn of legal constraint.

As it happened, the Allies won. Yet their victory did not eliminate the hazards of outlawing war. States still launch wars, but now that making war is theoretically forbidden, they claim to be acting otherwise—defending themselves, or policing the commons, or taking measures short of war. The status of belligerent, after all, no longer affords them protection, serving instead to expose them to criticism and regulation. In the United States, Congress has not formally declared war since World War II. Presidents order troops into battle while the public and its representatives cheer, carp, and, above all, watch.¹³

Outlawing war meant a tradeoff at best, both deterring violence and catalyzing it. Outlawing war has also given powerful states a paradoxical new rationale for waging war: to enforce law. This danger was detected at the time by Carl Schmitt, the

¹¹ General Treaty for Renunciation of War as an Instrument of National Policy, 58-64.

¹² Adam Tooze, *The Wages of Destruction: The Making and Breaking of the Nazi Economy* (New York: Viking, 2006).

¹³ See Mary Dudziak, *War Time: An Idea, Its History, Its Consequences* (New York: Oxford University Press, 2012).

right-wing jurist and Nazi who submitted liberal internationalism to relentless attack in the 1920s and 30s. Where liberals hoped to subordinate states to rules, and war to peace, Schmitt retorted that the very devices supposed to get there would be wielded as weapons by the powerful. He argued that the Paris Peace Pact “does not outlaw war, but sanctions it,” because the signatories put forth a raft of exceptions (on grounds like self-defense and vital interest) that would allow them to wage war when they liked and yet attack their enemies for violating the solemn Pact.¹⁴ Frank Kellogg, the American Secretary of State, went so far as to exempt any action that the United States took under the Monroe Doctrine, through which it claims the right to police the Western Hemisphere.¹⁵

One of the original “realists,” Schmitt is the *bête noir* of *The Internationalists*. Hathaway and Shapiro assail not only his ideas but also his person, recounting his well-known machinations at the University of Berlin, where he defended the legality of the Nazis’ extrajudicial assassinations, and his interrogation at Nuremberg, where he escaped prosecution but not disgrace. Yet the authors try to have it both ways in their quarrel with Schmitt. At times, they acknowledge the validity of Schmitt’s claim that outlawing war can redirect violence rather than reduce it. “The outlawry of war has not brought world peace,” they concede toward the end. “By opting for outlawry, we have traded a world of *interstate* war for one of *intrastate* war,” where weak states no longer get conquered even if they cannot maintain internal order (368-9). Here, and in other spots, they allow that eliminating war in law hardly eliminated it in fact, that organized violence has not ended but morphed. For the most part, however, they credit the outlawry of war for getting rid of actual war. The Pact, they write, ushered in an “unprecedented period of peace between states” (334). “Compulsion by war was over,” they enthuse. “The era of global cooperation had begun” (305). Confusing norms and practices, Hathaway and Shapiro celebrate an achievement that they elsewhere recognize to be in name only. Their account is not so much nuanced as schizophrenic.

Likewise, Hathaway and Shapiro can’t settle on the optimistic outcome that they seek to explain. When they want to make a case they can demonstrate, they home in on wars of conquest, which have indisputably declined. Yet this is too slender a stake to support grand pronouncements about the forward march of world order. So to make their case sufficiently significant, they make declarations about war in general, even though they struggle to show, and at times decline to argue, that warfare as such has abated. This switching of standards not only makes for jarring reading; it also forces Hathaway and Shapiro to minimize the continued existence of warfare—the very thing their vaunted internationalists sought to banish from the earth.

Internationalism or supremicism

Why do Hathaway and Shapiro neglect the persistence of war in a book about outlawing it? One reason is that to confront wars of all kinds would require them to address the ills, and not just the blessings, of American power. This is something they are unwilling to do. Like the humanitarian interventionists they hope to displace, Hathaway and Shapiro appear to take U.S. global military supremacy as the prerequisite of a peaceful world, not as a significant source of arms and armed conflict.

For all they hype the 1928 Pact, Hathaway and Shapiro hinge their narrative on World War II, after which wars of conquest slowed. They go to great lengths to argue that the pact inspired the United Nations: American leaders, they claim, took the outlawing of war in 1928 and, in a straight line, added “teeth” to it in 1945 (195). Shotwell supplies the central link for this argument, since, after promoting the pact, he went on to help design the United Nations Charter in the wartime State Department. Yet Shotwell, as discussed earlier, had always valued the pact as a fallback plan that would eventually include a scheme of enforceable sanctions. The pacifist Levinson, who also shaped the Pact, supported it for the opposite reason: he hoped that it would never provide a warrant for any big power to wage war. Having shown as much in their lone chapter on

¹⁴ Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago and London: The University of Chicago Press, 2007 [1932]), 50.

¹⁵ Frank Kellogg, *General Pact for the Renunciation of War: Hearings Before the Committee on Foreign Relations, United States Senate*, 7 December 1928, 70th Cong., 2nd sess. (Washington, D.C.: U.S. Government Printing Office, 1928), 15-20.

the Pact's formation, Hathaway and Shapiro spend the rest of the book forgetting that insight, enthroning Shotwell as the Pact's heir and making Levinson virtually disappear. They do not appreciate that Levinson's pacifistic strain of internationalism lost out as the United States decided to install itself as the supreme military power and enforcer of "world order." Insofar as Shotwell's vision was realized, Levinson's was traduced.

Moreover, even Shotwell's vision had a more limited influence on the postwar order than Hathaway and Shapiro claim for it. They are right to point out that the UN Charter, like the Paris Peace Pact, prohibited the use of force and did not mandate any punishment against violators. Yet the charter also set up a Security Council that authorized the great powers to use force however they collectively decided. To American officials at the time, this was precisely the value of the United Nations: It could serve as a vehicle for the United States, in concert with its allies, to project power on a global scale. "Only force will make and keep a good peace," as one postwar planner, the geographer Isaiah Bowman, summed up in 1940.¹⁶ In an almost overt realization of Schmitt's prognosis, the United States nominally outlawed war while claiming the right to police the "peace."

For this reason, when they formulated the UN Charter, American planners drew inspiration less from the Paris Peace Pact than from the League of Nations, the British empire, and the Allied councils of World War I, all models they associated with armed force.¹⁷ Shotwell was no exception in this regard. In his early draft of the charter, penned in 1942, he provided only for a great-power directorate, without a general assembly of nations.¹⁸ Hathaway and Shapiro brandish Shotwell's draft as if it were a smoking gun. "As far as we are aware," they exclaim, "no one has previously made the connection between Shotwell and the first draft of the United Nations Charter" (169). In fact, two major historians of the subject, Andrew Johnstone and Christopher O'Sullivan, have noted Shotwell's authorship of the early draft, without finding cause for excitement in the role of the Paris Peace Pact, since Shotwell appealed to multiple models and had always preferred enforceable sanctions to the pact's pacifism.¹⁹

Proceeding from the unusual vantage point of 1928, Hathaway and Shapiro should be perfectly positioned to show how the goal of transcending power politics had turned, by 1945, into something else: the American domination of power politics. Astonishingly, however, they end up eliding the difference. Urging the United States to return to its original formula for world leadership, they effectively replicate the conceit that ending war requires the armed preeminence of the United States. Instead of making this contradiction visible—as it once appeared to many Americans, and often appears now to the rest of the world—they obscure it. *The Internationalists* becomes *The Supremacists*; the antiwar pact in effect cleanses America's military primacy. As a consequence, Hathaway and Shapiro commit what legal historian Samuel Moyn has called the

¹⁶ Isaiah Bowman, "Guiding Principles for the Preparation of Memoranda," 20 May 1940, Box 298, Council on Foreign Relations Records, Seeley G. Mudd Manuscript Library, Princeton University.

¹⁷ Stephen Wertheim, "Tomorrow, the World: The Birth of U.S. Global Supremacy in World War II" (PhD diss., Columbia University, 2015), chs. 3-4.

¹⁸ James Shotwell, "Preliminary Draft on International Organization," Subcommittee on International Organization, Document 2, 31 July 1942, Record Group 59, Box 86, Harley A. Notter Records, National Archives and Records Administration, College Park, MD; and see the planners' discussion of Shotwell's draft in Subcommittee on International Organization, Chronological Minutes 2, Meeting of July 31, 1942, Box 86, Notter Records.

¹⁹ Andrew Johnstone, "Shaping our Post-war Foreign Policy: The Carnegie Endowment for International Peace and the Promotion of the United Nations Organisation during World War II," *Global Society* 28:1 (2014), 33; Christopher O'Sullivan, *Summer Welles, Postwar Planning, and the Quest for a New World Order, 1937-1943* (New York: Columbia University Press, 2002), ch. 4, <http://www.gutenberg-e.org/osc01/frames/fosc04.html>. Shotwell's draft is also mentioned in Glenn Mitoma, *Human Rights and the Negotiation of American Power* (Philadelphia: University of Pennsylvania Press, 2013), 30.

“cardinal error” of liberal internationalism, namely “over-identification with American interests and power, betraying liberalism and internationalism alike.”²⁰

This error grows stark as the authors turn, at the end of their book, to recent events. Hathaway and Shapiro blame Russia and the Islamic State for threatening to plunge the world into the dark days of rampant conquest. They are not wrong, but their field of vision is incomplete. America’s invasion of Iraq receives one brief discussion in the book, and when it does appear, Hathaway and Shapiro mention it not to exemplify a norm-shattering, illegal war but rather to dramatize the happy story that the George W. Bush administration, despite its unilateralist outlook, later felt compelled to reverse its steel tariff in deference to World Trade Organization rules (372). They also all but ignore the now 17-year-old war in Afghanistan and U.S.-backed violence in Yemen and beyond. They mention “drone” once, in describing the prosecution’s tedious opening statement at the Nuremberg trials (280). For Hathaway and Shapiro, and for many other so-called liberal internationalists, the United States does not really count as a warmaker and lawbreaker. America upholds and enforces peace and law, never mind when it doesn’t.

Internationalism after Trump

Back when Samantha Power wanted to stop genocide, she wrote out of a sense of outrage at the state of the world and a faith that the United States could make things better. Hathaway and Shapiro compellingly criticize her style of humanitarian intervention, noting that it erodes the norm that prohibits conquest. “If the United States insists on the right to resort to war in violation of the Charter to address emergencies,” they warn, “it cannot stop others from abrogating to themselves the same powers—and that, in turn, threatens the entire system, which requires states to abide by the prohibition on war” (417). On this count, Hathaway and Shapiro’s liberal internationalism improves on Power’s. It takes a structural view absent from humanitarian moralizing.

Yet the “entire system” that Hathaway and Shapiro seek to defend has bequeathed profound problems, too. As they explain at the end of *The Internationalists*, they intend their manifesto as a defense of the international system as it has existed for nearly a century. “The international institutions that have grown up since 1928, while imperfect, have brought seven decades of unprecedented prosperity and peace,” they conclude (419). Power, at least in her earlier incarnation, summoned her fellow citizens to improve a violent and unjust world. Hathaway and Shapiro risk throwing that goal away. They write to preserve—eulogize?—what has come before, not to change it.

This explains why their book has resonated with so many liberals in the Trump years. Since the presidential election, American foreign-policy experts have banded together to guard what they have called the “liberal international order,” which, they seem to think, postwar presidents before Trump uniformly upheld but which Trump wholly rejects.²¹

²⁰ Samuel Moyn, “Beyond Liberal Internationalism,” *Dissent* 64:1 (Winter 2017), 116.

²¹ Examples include Stephen Chaudoin, Helen Milner, and Dustin Tingley, “Down But Not Out: A Liberal International American Foreign Policy,” in Robert Jervis, Francis Gavin, Joshua Rovner, and Diane Labrosse, eds., *Chaos in the Liberal Order: The Trump Presidency and International Politics in the Twenty-First Century* (New York: Columbia University Press, 2018), 61-97; Daniel Deudney and G. John Ikenberry, “Liberal World: The Resilient Order,” *Foreign Affairs* 97:4 (July/August 2018): 16-24; Hans Kundnani, “What is the Liberal International Order?” *The German Marshall Fund Policy Essay*, 3 May 2017, <http://www.gmfus.org/publications/what-liberal-international-order>; Kori Schake, “The Trump Doctrine Is Winning and the World Is Losing,” *New York Times*, 15 July 2018, SR1. For critiques of the concept of “liberal international order,” see Thomas Meaney and Stephen Wertheim, “Trump’s Foreign Policy is Very American,” *New York Times*, 11 March 2018, SR7; Patrick Porter, “A World Imagined: Nostalgia and the Liberal Order,” *CATO Institute Policy Analysis*, 5 June 2018, <https://www.cato.org/publications/policy-analysis/world-imagined-nostalgia-liberal-order>; Paul Staniland, “Misreading the ‘Liberal Order’: Why We Need New Thinking in American Foreign Policy,” *Lawfare* (blog), 29 July 2018, <https://www.lawfareblog.com/misreading-liberal-order-why-we-need-new-thinking-american-foreign-policy>.

Hathaway and Shapiro share this protective project, even if they distinctively backdate its inception to 1928. Reviewers have approved. “Given the state of the world,” writes the Oxford historian Margaret MacMillan, “*The Internationalists* has come along at the right moment.”²² Isabel Hull, the great historian of imperial Germany, likewise commends the “timely and necessary plea for international law and for the value of institutions from which we all have benefited, but which we have in recent decades neglected to explain or defend.” So desperate is Hull to preserve the old order that she absolves Hathaway and Shapiro of the very myopia, excessive nationalism, that threatens it today. “They may be forgiven,” she allows, “for exaggerating the role of the U.S. in outlawing war and in fashioning the institutions that sustain the hope of international co-operation.”²³

Perhaps Hull has it backward. The present moment should invite us not to suspend criticism of past U.S. foreign policy, but to sharpen it. Somewhere in this history lie the sources of the militarism and the national and racial chauvinism that Trump has paraded before humanity. One source is World War II and the same internationalists romanticized a decade ago as the antithesis of George W. Bush and, now, Donald Trump. Putting America first, those internationalists decided that the United States must maintain armed supremacy over the rest of the world in order for the world to stay right. In this respect, Trump is their heir, and resembles his most prominent critics. The internationalists of the last century are, it turns out, quite relevant to our current crisis. They helped us get here and offer no way out.

²² Margaret MacMillan, “The Internationalists by Oona Hathaway and Scott Shapiro—law and peace,” *Financial Times*, 1 September 2017, <https://www.ft.com/content/9e4191c6-8db5-11e7-9580-c651950d3672>.

²³ Isabel Hull, “Anything Can Be Rescinded,” *London Review of Books*, 26 April 2018, <https://www.lrb.co.uk/v40/n08/isabel-hull/anything-can-be-rescinded>.

 REVIEW BY JOHN MUELLER, OHIO STATE UNIVERSITY AND CATO INSTITUTE

Historian Michael Howard has observed that, “Before 1914 war was almost universally considered to be an acceptable, perhaps an inevitable and for many people a desirable way of settling international differences.”¹ Indeed, in that era it is very easy to find serious writers, analysts, and politicians in Europe and North America exalting war as beautiful, honorable, holy, sublime, heroic, ennobling, natural, virtuous, glorious, cleansing, manly, necessary, and progressive. In contrast, they found peace to be debasing, trivial, and rotten, and characterized by crass materialism, artistic decline, repellant effeminacy, rampant selfishness, base immorality, petrifying stagnation, sordid frivolity, degrading cowardice, corrupting boredom, bovine content, and utter emptiness.² It was no less a figure than Immanuel Kant who maintained that “a prolonged peace favors the predominance of a mere commercial spirit, and with it a debasing self-interest, cowardice, and effeminacy, and tends to degrade the character of the nation.”³

After the First World War, such sentiments were only rarely expressed. This can be taken to suggest that the appeal of war—or at least of war among developed states—diminished markedly both as a desirable exercise in itself and as a sensible method for resolving international disagreements. Where war had commonly been accepted as a standard and permanent fixture, the idea gained substantial currency that war was no longer an inevitable or necessary fact of life and that major efforts should be made to abandon it.

This cultural shift toward war aversion has often been noted by historians and political scientists. Arnold Toynbee points out that World War I marked the end of a “span of five thousand years during which war had been one of mankind’s master institutions.”⁴ In his study of wars since 1400, Evan Luard observes that “the First World War transformed traditional attitudes toward war. For the first time there was an almost universal sense that the deliberate launching of a war could now no longer be justified.”⁵ Bernard Brodie points out that “a basic historical change had taken place in the attitudes of the European (and American) peoples toward war”; Eric Hobsbawm concludes, “In 1914 the peoples of Europe, for however brief a moment, went lightheartedly to slaughter and to be slaughtered. After the First World War they never did so again”; and K.J. Holsti observes, “When it was all over, few remained to be convinced that such a war must never happen again.”⁶

In their engaging, provocative, and highly readable book, *The Internationalists: How a Radical Plan to Outlaw War Remade the World*, Oona Hathaway and Shapiro Scott of the Yale Law School agree with this assessment about the important change in opinion that took place. However, they locate the essential impetus for it not in the catastrophic experience of

¹ Michael Howard, *The Causes of Wars and Other Essays*, 2nd ed. (Cambridge: Harvard University Press, 1984), 9.

² John Mueller, *Retreat from Doomsday: The Obsolescence of Major War* (New York: Free Press, 1989), ch. 2. Roland N. Stromberg, *Redemption by War: The Intellectuals and 1914* (Lawrence: Regents Press of Kansas, 1982).

³ Immanuel Kant, *The Critique of Judgement*, James Creed Meredith, trans. (Oxford: Oxford University Press, 1952 [1790]), 113.

⁴ Arnold J. Toynbee, *Experiences* (New York: Oxford University Press, 1969), 214.

⁵ Evan Luard, *War in International Society* (New Haven: Yale University Press, 1986), 365.

⁶ Bernard Brodie, *War and Politics* (New York: Macmillan, 1973), 30. Eric J. Hobsbawm, *The Age of Empire 1875-1914* (New York: Vintage, 1987), 326. Kalevi J. Holsti, *Peace and War: Armed Conflicts and International Order 1648-1989* (Cambridge: Cambridge University Press, 1991), 175.

what was then called the Great War, but in the often-ridiculed Kellogg-Briand Pact that was signed in 1928, ten years after the war ended—the one that is generally taken to have declared international war to be illegal.

Indeed, the book often seems essentially to advance a grand counterfactual: if the Pact had not been instituted, things would be entirely different and we would still be wallowing in a world in which international war was routine. We are told, for example, that the Pact was “the source of the transformation” (xx), or that it “set in motion” the change (330), or that it was “beginning of the end” of the old order (335), or that it “changed the world” (352), or that it was a “crucial...trigger” (xviii, 377), a “sudden shock” (341), “among the most transformative events of human history” (xiii), or, in the words of the book’s subtitle, that it was a “radical plan” that “remade the world.”

Hathaway and Shapiro stress that “ideas matter” and that their book “is both a history of ideas about war and a history about how those ideas found their way into practice” (xxi). And they do a superb job of showing the (sometime halting) process in which the mechanisms of international war, and particularly of conquest, have ceased to function as they once routinely did in relations among states.

As they acknowledge, there was some awkwardness along the way, especially the even greater war that broke out in Europe in 1939. However, as John Keegan argues, “only one European really wanted war: Adolf Hitler.”⁷ And even Nazi leader Hitler sensed the change, pointedly professing in every foreign policy speech in the 1930s his hatred for war and his desire for peace.⁸ It was the biggest lie—as he put it late in 1938, “Circumstances have forced me to talk almost exclusively of peace for decades.”⁹ It certainly seems possible that, without him, Europe, once the world’s most warlike continent, might this year be celebrating a full century of freedom from substantial international war.¹⁰

And after Hitler’s war, armed conflict among developed countries, contrary to post-war anticipations, slumped into disuse.¹¹ Indeed, as Steven Pinker points out, the most notable and striking statistic in the history of warfare is zero: the number of wars conducted between developed states since the end of World War II.¹² “Given the scale and frequency of war during the preceding centuries in Europe,” notes Luard, “this is a change of spectacular proportions: perhaps the single most striking discontinuity that the history of warfare has anywhere provided.”¹³ Or as Robert Jervis puts it, “the turning off” of the fear

⁷ John Keegan, “WHEN THE WORLD WENT BACK TO WAR: Only One Man Wanted to Ignite World War II,” *Los Angeles Times*, 27 August 1989, <https://www.latimes.com/archives/la-xpm-1989-08-27-op-1560-story.html>.

⁸ For a compilation, see John Muehller, “Hitler on Peace,” <https://politicalscience.osu.edu/faculty/jmueller/hitpeace.pdf>.

⁹ Joachim C. Fest, *Hitler* (New York: Harcourt Brace Jovanovich, 1974), 536.

¹⁰ For this argument more fully, see John Mueller, *The Remnants of War* (Ithaca: Cornell University Press, 2004), 54-65.

¹¹ On the anticipations, see Mueller, *Retreat from Doomsday*, 97-99; John Mueller, “History and Nuclear Rationality,” *The National Interest*, 19 November 2012, <https://nationalinterest.org/commentary/history-nuclear-rationality-7749>.

¹² Steven Pinker, *The Better Angels of Our Nature: Why Violence Has Declined* (New York: Viking, 2011), 249-51.

¹³ Luard, 77. See also Robert H. Johnson, *Improbable Dangers: U.S. Conceptions of Threat in the Cold War and After* (New York: St. Martin’s, 1997); Robert Jervis, “Theories of War in an Era of Leading-Power Peace,” *American Political Science Review* 96:1 (March 2002): 1-14.

of, and the preparation for, war among leading countries “is the greatest change in international politics that we have ever seen.”¹⁴ World War III, then, continues to be the greatest nonevent in human history.¹⁵

However, the big idea in the aftermath of the Great War was not so much that international war should be technically illegal, but, more broadly, that it was simply no longer an acceptable form of international behavior. And that idea was substantially enshrined, I think, well before the Pact of 1928.

In particular, the League of Nations had a decade earlier set up a system, or device, in which the world would be divided up into various chunks whose representatives would agree not to change borders by force. Indeed, as Hathaway and Shapiro note, League signatories would be *required* to use force to counter such aggression: they could no longer simply stand by neutrally as others fought it out (105-106). In fact, as the book suggests, this requirement was the chief reason why the United States stayed out (111-112, 161). American politicians were under the (mistaken) impression that Europe might still be “an arena of gladiators,” as Thomas Jefferson once called it.¹⁶ Consequently, they were wary of being dragged, or snookered, into another of that continent’s seemingly-congenital armed disputes like the supreme exercise in sustained collective idiocy in which they had just participated.¹⁷ Lyricist Ira Gershwin captured the mood in 1927, the year before the Pact, in “Strike up the Band”: “We’re in a bigger, better war/For your diplomatic pastime/We don’t know what we’re fighting for/But we didn’t know the last time!”¹⁸

At times, Hathaway and Shapiro are bit more modest about the importance of the 1928 Pact, arguing only that it “helped” set the important transformation in motion (334). That certainly seems plausible: the Pact may have worked to codify a pre-existing norm, a word, however, that they mostly relegate to an endnote (532n9).

One might consider a counterfactual in counter to theirs: if the Pact had never been signed, the world would have turned out pretty much the same. Is not clear, at least to me, that although it contributed to the process of change at various points, the Pact was really necessary. Hathaway and Shapiro do document that it helped provide a legal rationale for the Nuremberg war crimes tribunal after World War II (ch. 12). But it seems highly likely that such an exercise in victor’s justice would have taken place even without the justification the Pact so conveniently supplied. And for the most part, it was scarcely that much of an achievement—solemnly dispatching an array of second hand and second rate Nazis. The chief architect of the European war, Adolf Hitler, was dead, and his 1939 accomplice, Soviet dictator Josef Stalin, was not in the dock.

At the end of the book, while sensibly celebrating and detailing the rather amazing decline of conquest and of international war, Hathaway and Shapiro worry about a few atavistic pressures. But these concerns may be a bit overwrought.

¹⁴ Robert Jervis, “Force in Our Times,” *International Relations* 25:4 (December 2011), 412.

¹⁵ Mueller, *Retreat from Doomsday*, 3.

¹⁶ Thomas Jefferson, *Democracy*, Saul K. Padover, ed. (New York: Appleton-Century, 1939), 262-263.

¹⁷ James Duane Squires, *British Propaganda at Home and in the United States From 1914 to 1917* (Cambridge: Harvard University Press, 1935).

¹⁸ On this issue, see John Mueller, “Preaching To The Masses: Strike Up The Band And War,” liner notes for the recording of “Strike Up the band,” Roxbury Recordings, 1991, 33-35, http://aln2.albumlinernotes.com/Preaching_To_The_Masses.html.

One involves Russia's takeover of Crimea in 2014, which seems increasingly to have been an opportunistic one-off and was more nearly an act of subversion than of old-style military aggression.¹⁹ They also worry about the rise of the Islamic State, or ISIS, particularly in its (rather childish) international pretensions or bloviations.²⁰ But the vicious group, large by terrorism standards but tiny by most military ones, generated little appeal in Muslim areas or beyond, and is already in what seems to be terminal demise, however inspirational it may remain to the occasional individual terrorist aspirant around the globe.²¹

But they are concerned above all that the United States might not be able to stay the course, and summarily maintain that "the success of the system depends on the willingness of the United States to continue to play a central role in maintaining the legal order in the face of these many challenges." Indeed, they continue, "the greatest threat to the New World Order come from those who wish to abandon this role and turn inward," a chain of reasoning that brings us, of course, to President Donald Trump (419).

Although this seems to attribute more coherence to Trump's "policy" than may be justified, it might actually be better for everybody if the United States did take a bit of an inward turn.²²

The Pact that appears to have outlawed war in 1928 specifically insists in one of its two substantive sentences that only "pacific means" may be used for the "settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be" (128). That would seem to suggest that, in recent decades, the United States has become a rather considerable outlaw: it has clearly failed to rely entirely on "pacific means" in many arenas concluding in its invasions and interventions in the Middle East in this century. Although these applications of military force have generally not been conquest in the usual sense, the ventures, in total, have resulted in hundreds of thousands of deaths. Only a few of them are

¹⁹ Robert Person, "6 Reasons not to worry about Russia invading the Baltics," *The Washington Post*, 12 November 2015, <https://www.washingtonpost.com/news/monkey-cage/wp/2015/11/12/6-reasons-not-to-worry-about-russia-invading-the-baltics/>.

²⁰ "Know, oh Obama, that we will reach America. Know also that we will cut off your head in the White House and transform America into a Muslim province" from Joel B. Pollak, "ISIS to Obama: We'll Behead You and Make America Muslim," *Breitbart*, 28 January 2015, <https://www.breitbart.com/national-security/2015/01/28/isis-to-obama-well-behead-you-and-make-america-muslim/>; and "We will make your wives concubines and make your children our slaves...Soon, very soon, the blood will spill like an ocean....The Kremlin will be ours," from Larry McShane, "ISIS terrorists apparently threaten to grab the Kremlin and tell Russians: 'We will make your wives concubines and make your children our slaves,'" *New York Daily News*, 13 November 2015, <https://www.nydailynews.com/news/world/isis-terrorists-threaten-russia-new-video-article-1.2432831>. The preposterous, grandiloquent statements of Islamic State forefather Abu Musab al-Zarqawi (who was killed in 2006) that "We fight here, while our goal is Rome" are sometimes gravely and ominously relayed as if they had some serious meaning: Carol Morello and Joby Warrick, "Islamic State's ambitions and allure grow as territory shrinks," *The Washington Post*, 4 July 2016, https://www.washingtonpost.com/politics/islamic-states-ambitions-and-allure-grow-as-territory-shrinks/2016/07/03/b465c502-414a-11e6-88d0-6adec48be8bc_story.html. On this issue, see also Mark Lynch, "Contesting the Caliphate," *The Washington Post*, "The Monkey Cage" (blog), 22 July 2015, <https://www.washingtonpost.com/news/monkey-cage/wp/2015/07/22/contesting-the-caliphate/>.

²¹ John Mueller and Mark G. Stewart, "Misoverestimating ISIS: Comparisons with Al-Qaeda," *Perspectives on Terrorism* 10:4 (August 2016): 32-41. On the mostly inadequate individual aspirants: John Mueller and Mark G. Stewart, *Chasing Ghosts: The Policing of Terrorism* (New York: Oxford University Press, 2017), chs. 3-4; John Mueller (ed.), *Terrorism Since 9/11: The American Cases* (Columbus: Mershon Center, Ohio State University), <https://politicalscience.osu.edu/faculty/jmueller/since.html>.

²² A. Trevor Thrall and Benjamin H. Friedman (eds.), *US Grand Strategy in the 21st Century: The Case for Restraint* (New York and London: Routledge, 2018).

discussed in *The Internationalists* and then only cursorily, and this general issue receives only very brief treatment (416-417).²³

It seems to me that the system Hathaway and Shapiro so sensibly and informatively celebrate would likely have come about even if the United States had withdrawn into itself as many Americans advocated after World War II. The U.S. has certainly helped to promote greater international trade, something Hathaway and Shapiro are justifiably enthusiastic about, but its contribution to the process, while substantial, does not seem to have been crucial—it was in the air for a considerable number of reasons.²⁴ Indeed, Hathaway and Shapiro suggest that dramatic increases in international trade have been more nearly the result of peace than its cause (342-344).²⁵ And the chief enemy during the period, international Communism, threatened subversion, revolution, and civil warfare, but it did not envision direct aggressive Hitler-style warfare as a remotely sensible tactic and did not need to be deterred from such a venture.²⁶

The efforts of the United States, then, were scarcely necessary to preserve international peace after 1945.²⁷ The highly consequential process was already well underway due to a change in ideas that took place well before the Pact of 1928 was penned

On the other hand, American military efforts in recent decades, many of them illegal according to the Pact, have sown considerable mayhem. Accordingly, the world would be in big trouble if “the success of the system” crucially depends on the United States. Fortunately, it does not.

²³ The same holds for the remarkably rare and elliptical mentions of Israel’s illegal conquests in the Middle East a half century ago in the aftermath of an international war, an issue that would seem to be important to the book’s generally excellent discussion of the decline of conquest.

²⁴ Daniel Yergin and Joseph Stanislaw, *The Commanding Heights: The Battle Between Government and the Marketplace That Is Remaking the Modern World* (New York: Simon & Schuster, 1998).

²⁵ On this issue, see John Mueller, “Capitalism, Peace, and the Historical Movement of Ideas,” *International Interactions* 36 (March 2010), 169-184; Mark E. Pietrzyk, *International Order and Individual Liberty: Effects of War and Peace on the Development of Governments* (Lanham: University Press of America, 2002).

²⁶ Mueller, *Retreat from Doomsday*, 99-102; John Mueller, *Atomic Obsession: Nuclear Alarmism from Hiroshima to Al-Qaeda* (New York: Oxford University Press, 2010), ch. 3.

²⁷ See also Johnson; Simon F. Reich and Richard Ned Lebow, *Good-Bye Hegemony! Power and Influence in the Global System* (Princeton: Princeton University Press, 2014); Christopher J. Fettweis, *Psychology of a Superpower: Security and Dominance in U.S. Foreign Policy* (New York: Columbia University Press, 2018).

RESPONSE BY OONA A. HATHAWAY, YALE UNIVERSITY AND SCOTT J. SHAPIRO, YALE UNIVERSITY

We are so grateful for the thoughtful responses to our book, *The Internationalists*. We cannot do justice to every point made. Instead, we have chosen to engage four key challenges the responses raise: whether the Kellogg-Briand Pact of 1928 can really be said to be a success if it did not halt aggressive war (even if it stopped wars of conquest); whether things would have turned out differently without the Pact; whether the book is overstated—outlawry of war did not cause the change on its own; and whether the book focuses too much on Americans and ignores American militarism.

To begin, Stephen Wertheim’s contribution puts forward an important challenge: Even if we are right that the Pact stopped wars of conquest, the Pact failed in its true aim, which was to stop aggressive war altogether. As he puts it,

“Even if they were correct to credit the Pact with halting wars of conquest, however, Hathaway and Shapiro neglect that its original intention was grander. The Pact did not specifically target ‘conquest’—a term that appears nowhere in its text. Instead it outlawed war full stop, undertaken for any aggressive purpose, not just land hunger. When Hathaway and Shapiro look to tell a tale of progress after World War II, they move the goalposts to wars of conquest.”

To provide some background, in *The Internationalists*, we show that conquest has fallen precipitously since the Pact entered into force. In writing the book, we assembled a dataset that includes every territorial exchange between states from 1816 to 2014, totaling over 800 entries. Analyzing the cases of territorial change that took place during a militarized conflict or as the result of a lesser degree of force, we found that before 1928, there was, on average approximately one conquest every 10 months (1.21 conquests per year). Put another way, the average state could expect to lose territory in a conquest once in an ordinary human lifetime. The conquests were not small—the average amount of territory conquered during this period was 295,486 square kilometers per year. In the period between 1929 and 1948, the average annual number of conquests and size of conquests declined, but only slightly. What’s notable, however, is that the vast majority of those conquests were treated as illegal and thus illegitimate—and conquests made after 1928 were nearly all reversed after World War II. In the period after World War II, the average number of conquests fell to .26 per year. After 1948, the change an average state would suffer a conquest fell from once in a human lifetime to once or twice in a millennium. The average size of those conquests fell, as well—to a mere 14,950 square kilometers per year.¹

Why is this evidence relevant to our claim that the Pact made a difference—and was, indeed, a success? One of the main reasons that states used to go to war was to gain territory. Going to war, after all, is a brutal, bloody, and expensive business. A state is more likely to accept those costs if it can get something in exchange—and that something, usually, was land. We show that the Pact led directly to the Stimson Doctrine of non-recognition. The notes that U.S. Secretary of State Henry Stimson sent to China and Japan after Japan’s invasion of Manchuria in 1931 specifically stated that the United States would not recognize the conquest because it violated the Pact—which the United States, China, and Japan had all ratified. The League of Nations quickly followed suit. That had an important consequence: it shifted the incentives of states to wage war. States could no longer expect to have their territorial seizures acknowledged by other states. They could not easily sell the resources they had conquered, for example, or even get the mail delivered to or from territory illegally seized. That changed the incentives that states had to wage one of the main forms of aggressive war—wars that would result in territorial acquisition—and, we show in chapter 13, led to a measurable decline in such wars. As we go on to explain in chapter 14, it also changed the way in which states are shaped and formed—setting the stage for the number of sovereign states to more than triple in the last 70 years.

¹ This is all detailed in Chapter 13 of *The Internationalists*.

But what about other aggressive wars—ones that do not lead to territorial acquisition? Wertheim is right to note that these have not entirely disappeared. There is, of course, an extensive literature on the decline of aggressive war overall, which we summarize starting on page 334 of the book. That literature, we note, points to the fact that the major powers have not gone to war with one another since the Second World War. As we put it, “The decline in interstate war is so widely accepted and well documented as to have almost become conventional wisdom.” We do acknowledge, however, that not all conflict has disappeared. Indeed, we devote an entire chapter to certain forms of continuing conflict (Chapter 15: “Why is there still so much conflict?”). That chapter shows that even as interstate wars have declined, intrastate wars—which are not prohibited by the Pact—have become more common.²

In addition to documenting the decline in wars of conquest, and summarizing the extensive literature on the decline of interstate war more generally, we seek to show that the Pact not only had an effect on the incidence of war but also on several other key features of the international legal system. Economic sanctions by neutrals on belligerents, once illegal, became legal; the crime of aggression, once a logical impossibility, became possible; and gunboat diplomacy, once perfectly permissible, was prohibited. All these changes, we show in detail, came about as a direct result of the Pact.

We acknowledge, too, that the record of the Pact’s success is far from perfect. There have been violations, and those violations are becoming more common and more flagrant, leading us to warn in the conclusion that, “As the world stands on the brink of renouncing the core commitments of the New World Order, this book serves as a reminder of what is at stake.” (421). We are not blind to the fragility of the decision to outlaw war. But nor do we think that the fact that the law prohibiting aggressive war has been violated—including by some of the most powerful states—means that it is irrelevant or ineffective. Instead, *The Internationalists* is an attempt to explain that even though imperfect, the 1928 prohibition on war transformed the international legal order—and the world—for the better.

In his contribution to the symposium, John Mueller frames the thesis of our book in counterfactual terms: “if the Pact had not been instituted, things would be entirely different and we would still be wallowing in a world in which international war was routine.”

We do not, however, frame our thesis in these counterfactual terms. First, the posed counterfactual is resistant to direct testing. We cannot run history again without the Kellogg-Briand Pact and see whether the world turned out differently. Second, as theorists of causal explanation have long noted, causal explanation does not require counter-factual dependence. If two independent fires burn down a house, each fire causally explains the destruction, even though the house would have burned down even if each fire had not been set. The Kellogg-Briand Pact could still be a major cause in the shift of the international order without it being a ‘but-for’ cause of that change. Third, and most relevantly, the counterfactual frame Mueller presents is almost certainly false. It is akin to claiming that if Thomas Alva Edison had not invented the light bulb, we would still be sitting in the dark. Someone else would have invented the light bulb, or some other technology, to illuminate interior and exterior spaces. Similarly, we think it highly likely that had war not been outlawed by global treaty in 1928, it would have been legally curtailed—in some way, shape or form—at some time thereafter. Indeed, as we show in the book, the outlawry proposal surfaced in the course of a wide-ranging debate in the aftermath of the First World War about how to prevent another war.

But let us indulge Mueller’s counterfactual for a moment. Suppose the Internationalists had failed and the Kellogg-Briand Pact had not been signed in 1928. When Japan invaded Manchuria on September 11, 1931, is it plausible to suppose that the United States, through Henry Stimson, would have refused to recognize the conquest? It is hard to see why it would have. Nothing seemed to have changed between 1928 and 1932 to end the millennial-long practice of conquest so suddenly.

If we take Stimson’s word for it, however, the reason for the change in the most ancient right of sovereignty was the ratification of the Kellogg-Briand Pact. “The American Government ... does not intend to recognize any situation, treaty or

² See Chapter 15 (“Why is there still so much conflict?”).

agreement which can be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928” (167). At least in the short term, the Kellogg-Briand Pact was a “but-for” cause of the change in legal rules and state behavior.

If not for the outlawry of war, it is also difficult to imagine why the other rules of international law, and state practice, would have changed so quickly in the 1930’s and 1940’s. Again, we concede that if the Pact had not been signed in 1928, it is likely that some other change would have, at some point in the ensuing years, changed the status of conquest, gunboat diplomacy, neutrality, and aggression. But if this change had not transpired, it is hard to see why the change in the rules of the international order would have also have changed so quickly and in such a systemic fashion.

We fully agree with Mueller that the First World War caused a massive cultural shift in the meaning of war. Indeed, the story we tell in our book ties the outlawry of war movement to this catastrophic bloodbath and the failure of the League of Nations to present a satisfying alternative. But we also claim that this cultural shift—by itself—was insufficient to bring about the change in the rules of the international order that we take for granted today and which has led to a more peaceful and prosperous world. What was needed was some corresponding *legal* shift in the meaning of war. This shift, we claim, was brought about by the Kellogg-Briand Pact of 1928.

In his sympathetic discussion of our book, Daniel Gorman writes that though our “thesis is convincing,” he thinks that our statement of it is “overstated.” Gorman argues that the outlawry of war by itself did not cause the change in the legal order, but only did so in combination with the Second World War. “Absent the Second World War, the Kellogg-Briand Pact on its own was unlikely to have banished aggressive war as a normative feature of international affairs, as the history of the 1930s demonstrates.”

We do not disagree. As we emphasize many times in the book, the outlawry of war in the Kellogg-Briand Pact was merely the start of the process. “This renunciation was the beginning of a transformation, not the end.” (xiv). The Pact did not—indeed, could not—work all by itself. It contained no mechanism for its own enforcement. It was not embedded in any institutions that would have protected the prohibition. All the other rules that surrounded it were based on the premise of the legality of war. As we write in the introduction to the book: “Just as it took the Revolutionary War, the collapse of the first constitution of the United States (known as the Articles of Confederation), and the ratification of a second constitution in 1789 for the Declaration’s promise to be realized, it would take two decades of struggle, including a world war, the collapse of the League of Nations, and the establishment of the United Nations for the promise of the Pact to become a reality” (xiv). It is a tragic aspect of the story we tell that it took another world war and 70 million lives for the promise of the Pact to be fulfilled.

Indeed, we argue that the Second World War was not simply a war between democracy and fascism. It was a war over the status of war.

“The war that resulted would become a contest between two competing visions of the world: between one that saw the Pact as a piece of paper and one that saw it as a new legal reality; between one that clung to the right of conquest and one that rejected it; between one that held on to the belief that neutrality required impartiality and one that regarded the ‘sanctions of peace’ as an essential tool of law enforcement; between one that condemned economic sanctions and one that condemned military force. It would be a war, in short, between the Old World Order and the New” (182).

We disagree with Gorman when he writes: “No one in 1940 spoke of the promise of the Kellogg-Briand Pact as Axis armies were on the march.” As we show in Chapter 10 of *The Internationalists*, it was precisely in 1940 that the Pact was employed to overturn the principles of neutrality, permitting the United States to help the Allies resist the Axis. In that year, Hersch Lauterpacht, a leading professor of international law in England and one of the visionary Internationalists after whom the book is titled, travelled around the United States arguing that Kellogg-Briand Pact had changed the laws of neutrality. In his memo to Attorney General Robert Jackson, Lauterpacht wrote: “The effect of the [Pact] was to render unlawful wars

undertaken in violation of its provisions. In consequence, the [Pact] destroyed the historical and juridical foundations of the doctrine of neutrality conceived as an attitude of absolute impartiality.” Jackson then used Lauterpacht’s argument in his famous Havana speech in 1941 justifying the legality of the Lend-Lease Act on the basis of the Pact: “The principle that war as an instrument of national policy is outlawed must be the starting point in any plan of international reconstruction. And one of the promising directions for legal development is to supply whatever we may of sanction to make renunciation of war a living principle of our society.” (cited at 246-47).

As Gorman himself notes, the Atlantic Charter, which set out the war aims of Great Britain and the United States (even before the United States was at war) furthered the outlawry project. The Atlantic Charter began by restating the principles of the Stimson Doctrine—the two countries would “seek no aggrandizement, territorial or other.” Moreover, there would be “no territorial changes that do not accord with the freely expressed wishes of the peoples concerned.” The Charter closed by declaring that “all the nations of the world . . . must come to the abandonment of the use of force.” In 1942, the Atlantic Charter became the United Nations Declaration, which was ultimately joined by all the states allied together against the Axis powers.

Gorman argues that the data we cite as evidence for the causal efficacy of outlawry is in fact attributable to other causes “What happened during the middle decades of the twentieth century was not that the Kellogg-Briand Pact changed the world, but that the process of territorialization about which Charles Maier has written came to its conclusion. As states became more efficient at governing their own territory, they had less incentive to capture territory from their neighbours.”

We addressed this objection in the book, but since it is so natural, and has been raised by other critics, we repeat our response. Let us assume for the sake of the argument that the staggering decline in conquest is due to the fact that states became more efficient in regulating their territories: In the New World Order, conquest no longer pays in the same way that it did in the past.

Even if this were true, it could not explain why conquest is now considered illegal. When Russia annexed Crimea, for example, the response of most of the world was not bemusement—it was outrage. The United States and the European Union did not scratch their heads and wonder why Russia would do such an irrational thing. They imposed sanctions against Russia in direct response to what they explicitly labeled an illegal aggression. Similarly, when President Donald Trump expressed surprise that the United States did not take Iraq’s oil after its invasion in 2003, the response was not that Trump merely said something stupid. The near-universal reaction was to regard Trump’s suggestion as criminal.

In hindsight, then, it is not surprising that the Second World War had such little impact on the map of Europe. The First World War transformed the continent. The Second World War shifted the borders only slightly, principally between the Soviet Union, on the one hand, and Poland and Germany, on the other. As we conclude: “Part of the reason is that the winners had just finished fighting a war in which the rallying cry was the rejection of territorial aggrandizement by force. That rallying cry was rooted in the Pact” (332).

All of the responses raise questions about the book’s focus on Americans. Gorman notes what he calls the book’s “American-centrism,” arguing that “Americans played a role in these movements, but their voice was one among many.” Wertheim observes, “Why do Hathaway and Shapiro neglect aggressive war in a book about outlawing it? One reason is that to confront aggressive wars of all kinds would require them to address the ills, and not just the blessings, of American power. . . . Hathaway and Shapiro appear to take U.S. global military supremacy to be the prerequisite of a better world, not a significant source of arms and armed conflict.” And Mueller notes, “American military efforts in recent decades, many of them illegal according to the Pact, have sown considerable mayhem.”

Let's begin with the claim that the book is excessively American-centric (an argument also made by Isabel Hull in the *London Review of Books*, as Wertheim notes).³ The book features eight key figures: The Dutch humanist Hugo Grotius, the Japanese military strategist Nishi Amane, the German legal theorist Carl Schmitt, the Egyptian cleric Sayyid Qutb, the American bankruptcy lawyer Salmon O. Levinson, the Canadian medieval historian James T. Shotwell (later American naturalized), the American diplomat Sumner Welles, and the Hersch Lauterpacht (later naturalized as a British citizen). This is a reasonably international group.

That said, the narrative in the second part of the book—Transformation—does largely focus on the role of Americans in, first, outlawing war and then, second, reaffirming that prohibition on war in the United Nations Charter. The reason for this choice is simple: Americans played the primary role in each case. They certainly were not alone, and we aim to put the American role in context, but we do focus on who we regard as the key intellectual and practical actors at these key turning points—and they are Americans. The Kellogg-Briand Pact began as a conversation between the American and French diplomats (pushed along by the Canadian James Shotwell). But, we argue, the Pact would have been unlikely to gain enough support in the United States to be ratified—which was an essential to the Pact's success—if it were not for the decade of work before 1928 by American Salmon Levinson, who popularized the idea of “outlawry” and played a crucial role in winning over the public and, most crucially, Senate Foreign Relations Committee Chair William Borah—a man who had played a key role in preventing the United States from joining the League of Nations at the end of World War I, thus dooming that organization to almost certain failure. We show, too, that the United Nations Charter was conceived of and drafted by a working group in the United States Department of State, beginning in 1941. It was the United States that played the key role in not just drafting the agreement, but pressing forward negotiations—in particular pressing the Soviets to agree to participate before the unity forged by war collapsed. Yes, other states were essential. We would never suggest that Americans did it alone; of course that would have been impossible. But Americans played a key role in conceiving of these two agreements and doing the hard political work of not only bringing their own country on board, but encouraging others to participate as well.

It is a fair critique to note that the book does not linger on the ways in which the United States has, in the last several decades, engaged in aggressive actions that put the triumphs of the ‘Internationalists’ at risk. In the conclusion, we note that there are many challenges to the postwar consensus prohibiting the use of force outside the Charter framework, including from many of the same states that were instrumental in creating that framework. The book also addresses American militarism at various points in its history—including in the course of conquering what is now the United States. But while the book mentions the failure of the United States to live up to the requirements of the Pact and the Charter (for example, in Iran in the 1950's, Iraq in the 2000's), it does not dwell on them. We certainly could have said more than we did. In part, we made the choice not to detail those violations because they are visible and part of living memory, while the successes and resilience of the system are much less well documented. We wanted to unearth the deep structures that so many miss, and we wanted to make clear that the legal order created by the Internationalists has given us much that is worth defending. Moreover, we seeking to counteract the all-too common claim that the international legal system is somehow un-American, that the only way to help America succeed is to cut it off from international organizations that create needless constraints on America's freedom of action. That view is wrong, we want the book to say. It is deeply and fundamentally *American* to believe in the power of international institutions to do good in the world.

³ Isabel Hull, “Anything Can Be Rescinded,” *London Review of Books*, 26 April 2018, <https://www.lrb.co.uk/v40/n08/isabel-hull/anything-can-be-rescinded>.